Saskatchewan
Education

Advisory Committee on Home-Based Education

Final Report to the Deputy Minister of Education

Volume I

Recycled Paper

October 1992

Advisory Committee on Home-Based Education

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Saskatchewan Education
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Letter of Transmittal

Arleen Hynd
Deputy Minister of Education
Saskatchewan Education

Dear Mrs. Hynd,

As a result of more than a year's deliberations, interrupted by the provincial election in October 1991, the Advisory Committee is very pleased to submit its Final Report to you.

Saskatchewan has long had a national reputation for the development of educational policy through the collaborative process. As a further example of this collaborative and consultative process, the work of this Advisory Committee represents and reflects the interests of the range of partners in Saskatchewan education represented on the Advisory Committee.

Our recommendations attempt to provide a solution to the issues associated with home-based education in Saskatchewan in the context of existing provincial legislation and regulations as well as the new Canadian constitutional and legal framework, epitomized by *The Charter of Rights and Freedoms, 1982*. Specifically, the Advisory Committee endeavoured to recommend legislation, regulations, and policies that would appropriately balance the interests of the children being educated at home, their parents, and the public at large.

Respectfully submitted,

William A. Wells	Fred Funk **Fred Funk**
D. Crozier-Smith **Derwyn Crozier-Smith**	Pamela Mason **Pamela Mason**
J. Tim Peake **J. Tim Peake**	Jean Wenig **Jean Wenig**
Merv. Grosse **Merv Grosse**	Sharon Foreman **Sharon Foreman**
Sandra Hill **Sandra Hill**	Chris Gerrard **Chris Gerrard (Secretariat)**
Ardele Gorman **Ardele Gorman**	**Ernie Cychmistruk (Chairperson)**

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Executive Summary

Background

The need to develop more defined policies with respect to home-based education in Saskatchewan has arisen from a number of considerations.

Historically, home-based education in Saskatchewan was predominantly distance education for children who could not attend school. The Saskatchewan Correspondence School was established in 1925 with the explicit purpose, in its early years, of serving this group of children. Since 1977, however, the School has only offered high school courses directly, even though it still provides an elementary program indirectly in conjunction with the British Columbia Correspondence School.

Today, a new group of parents are choosing to educate their children at home, primarily for philosophical reasons. While there exists a broad continuum of philosophical perspectives among home-based educators in Saskatchewan, three major perspectives are child-initiated learning, popularized by John Holt; late introduction to academic learning, researched by Raymond and Dorothy Moore; and a traditional back-to-basics approach to learning with a Christian philosophical base. Various publishers, suppliers, and support groups have arisen in response to each of these various perspectives, as well as others.

These parents are also educating their children at home in a legal climate, represented by the *Canadian Charter of Rights and Freedoms, 1982*. Consequently, while the Alberta case, *Jones* v. *The Queen*,[1] which was expected to shed light on the powers and responsibilities of provincial governments with respect to both independent schools and home-based education, was proceeding to the Supreme Court of Canada, the Government of Saskatchewan, like other provincial governments, delayed its response to the increasing numbers of both independent schools and home-based educators.

Then on March 13, 1987, after the Supreme Court of Canada had rendered its decision in the *Jones* case in November 1986, the provincial government announced the appointment of Gordon Dirks to conduct a study on private schooling in Saskatchewan, examining various aspects of both independent schools and home-based education.

The Minister of Education released the *Review of Private Schooling in Saskatchewan* in December 1987 and announced a number of new policies with respect to independent schools on June 27, 1988. With respect to home-based education, the Minister said that:

> Saskatchewan Education will hold discussions with interested groups and school boards. Home schooling will continue to be permitted, but [the Minister] said he wants to see stronger supervisory procedures worked out to ensure that home schooled children receive a good education.

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[1] (1987) 31 Dominion Law Reports (4th) 569.

The Minister of Education proceeded to develop new legislation, regulations, and policies in two stages: first, for independent schools, and second, for home-based education. Effective July 1, 1989, he established an Independent Schools Branch in the Department of Education which was given responsibility for policy development with respect to independent schools and home-based education, and for administration with respect to independent schools. While the Department would henceforth be responsible for inspection and supervision of independent schools, public boards and directors of education would remain responsible for administering home-based education policies.

In October 1989, the Minister appointed an Advisory Board on Independent Schools to make recommendations concerning regulations, policies, and procedures governing the operation of independent schools in Saskatchewan. Representing all the major educational organizations in the province, this Advisory Board met for the best part of a year, reached a consensus on all its recommendations, and submitted its final report to the Minister in October 1990. Once this first Advisory Board had completed its work, the Deputy Minister then proceeded to establish the present Advisory Committee, similar to the first Board, to help develop provincial regulations and policies with respect to home-based education.

In consultation with the major partners in Saskatchewan education, the Deputy Minister established the representative structure of the Advisory Committee: four representatives from the public education system; four representatives from home-based education groups and independent schools; two at-large representatives; and a secretariat and a chairperson (both from the Department). Each of the organizations represented on the Committee was invited to name its own representative(s) to the Committee.[2]

Process

The Advisory Committee on Home-Based Education met generally once a month for two six month periods, from January to June 1991 and January to June 1992, interrupted by the summer of 1991 and the provincial election in October 1991.

In her letter of invitation, the Deputy Minister established the purpose of the Committee, namely, to make recommendations with respect to legislation, regulations, and policies which effectively balance the interests of the children being educated at home, their parents, and the public at large.

Also in her letter, while the Deputy Minister gave the Committee latitude to discuss a wide range of issues with respect to home-based education, she mandated the Committee to address a minimum of eight issues.

To help the Committee formulate and categorize the more specific questions to address under each of these eight issues:

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[2] See Table 1 for the complete membership of the Committee.

- The secretariat to the Committee presented an overview of home-based education in Saskatchewan, at the Committee's first meeting in February 1991. This included the numbers of home-based educators, the history of home-based education, why parents educate their children at home, major debates with respect to home-based education, and a list of publishers and suppliers of curricula to home-based educators in Saskatchewan.

- Each of the organizations on the Committee, as well as the two at-large members of the Committee, made a presentation during the second and third meetings in March and April 1991 with respect to (1) their organization's goals and philosophy; (2) their membership and operation; (3) how they perceived their role in Saskatchewan education; and (4) their views on public education and home-based education.

- The secretariat presented a summary of laws and regulations with respect to home-based education in other Canadian provinces at the fourth meeting in May 1992.

From the information received, the Committee formulated 20 questions which were categorized under four headings: (1) accountability; (2) curriculum, instruction, and evaluation; (3) funding, services, and special needs students; and (4) settlement of disputes. Starting at the fourth meeting in May 1991, the Committee started working through these questions from beginning to end, attempting preliminary answers to each question, and then coming back later to review and to fine-tune its entire package of recommendations.

Guiding Principles

In answering the various questions, the Advisory Committee took into account, first, the constitutional and legal framework within which parents may educate their children at home in Canada:

- Every child has a right to an education. Education is the very foundation of good citizenship and should develop the potential of all children in a changing world. Education should affirm the worth of each individual and lay a foundation for learning throughout life.

- Parents have the responsibility to provide for the education of their children and the right to direct their children's education at and from their home in accordance with their conscientious beliefs, subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.

- The Government of Saskatchewan has a compelling interest in the education of all Saskatchewan children, of which the primary vehicle is the public education system in its three dimensions -- public, separate, and fransaskois schools.

- The Government exercises the legislative authority to exempt children of compulsory school age from attendance at a public school.[3] In exercising this authority, however, public authorities must act in accordance with the principles of freedom of conscience and religion in education and fundamental justice.

- In the case of an alleged failure of parents to provide an adequate education for their children, the burden of proof resides with the government.

Second, the Advisory Committee considered the policy framework which the Deputy Minister had laid out in her letter of invitation to the organizations represented on the Committee:

- The Government of Saskatchewan has the interest and the responsibility to put in place a legislative and regulatory framework for home-based education in Saskatchewan.

- The Government of Saskatchewan will not repeal the compulsory attendance sections of *The Education Act*. Children of compulsory school age, who are not attending a public or an independent school, will be required to be under a program of instruction at home or elsewhere.

- All parents who are educating their own children of compulsory school age at home will be required to register this fact, either directly or indirectly, with some public authority.

- Parents must provide a quality of education comparable to that provided by public schools. However, it is recognized that parents educate their children at home in order to achieve objectives which may not or cannot be satisfied within the public education system.

Third, in the course of its deliberations, the Advisory Committee developed a number of operational principles surrounding its decisions, which, taken together, constituted its operational framework:

- As far as possible, the Committee will work on a consensus basis.

- The Committee acknowledges that some of its recommendations may require an amendment to provincial legislation. The Department of Justice will ultimately be responsible for determining which items must be in statute, which can go in regulation, and which can be handled simply as policy statements.

- As far as possible, the Committee will recommend legislation, regulations, and policies with respect to home-based education that are consistent with existing Saskatchewan educational practices, including the recently developed regulations and policies for independent schools.

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[3] Throughout the remainder of this report, unless otherwise stated, the term "public school" encompasses separate and fransaskois schools as well, and the term "board of education" encompasses both public and separate boards of education.

- While the Committee has examined legislation and regulations pertaining to home-based education in other provinces insofar as these reflect a common constitutional and legal framework in Canada, the Committee's recommendations will represent a made-in-Saskatchewan regime for home-based education in Saskatchewan.

- The Committee will attempt to facilitate the effective operation of home-based education in Saskatchewan. Its recommendations will not be intended to have a negative impact on the ability of parents to educate their children at and from their home.

- The Committee will attempt to promote a harmonious and co-operative relationship between boards of education and home-based educators in each school division.

Recommendations

Name and Categories of Home-Based Education Programs

The Advisory Committee has been concerned with home-based education at the initiative and under the direction of parents. While other provinces refer to this practice variously as home education, home schooling, or home study, the Committee concluded that "home-based education" more accurately reflects the actual practice that parents are providing their children with educational opportunities not only at home, but at and from the home, with the home as the base.

The term "home-based" also distinguishes home-based education from school-based instruction in the home, at the initiative and under the direction of public education authorities for health, disability, or locational reasons. Distance education, therefore, generally represents school-based education.

Next, although the Department now recognizes four categories of independent schools -- registered schools, accredited schools, historical high schools, and special needs schools -- the Committee concluded that there should be only one category of home-based education programs, namely, "registered home-based education programs", since it was impractical and inappropriate to consider accrediting home-based education programs. While it is appropriate to make provision in law for the accreditation of an independent school, since an independent school is an institution which is providing an education to other people's children, such is not appropriate for a home-based education program, which represents parents providing an education to their own children.

Registration of Home-Based Education Programs

In her letter of invitation to the organizations represented on the Committee, the Deputy Minister had indicated as part of the policy framework for the Committee that, since the Government of Saskatchewan would not repeal the compulsory attendance sections of *The Education Act*, parents who were educating their own children of compulsory school age at home would be required to register this fact, either directly or indirectly, with some public authority. After much discussion of this topic, including reference to legislation and regulations in other provinces, and after clarification of the policy framework by the Deputy Minister, the Committee accepted that all parents who are currently providing or intending to provide their own children of compulsory school age with a home-based education program should be required to register, either with a public board of education, or for a transitional period of time, directly with Saskatchewan Education.

The Advisory Committee's task has been to recommend workable policies and procedures that will foster a harmonious and co-operative relationship between boards of education and home-based educators in each school division, and that outline the respective roles and responsibilities, while recognizing the respective rights and interests, of all parties involved.

Since the Department of Education does not, in general, deliver educational services directly to Saskatchewan children, the Advisory Committee recognizes that, in the long term, boards of education are in the better position to provide services to home-based educators in the province. However, as a transitional arrangement, the Committee accepts that the Department should permit home-based educators to register directly with the Department in the context of the expectation that all home-based educators will eventually register locally and in the context of encouraging, rather than compelling, harmonious and co-operative relationships to develop between boards of education and home-based educators in each school division.

On the one hand, boards of education will only receive provincial grant recognition for those home-based educators who are registered with them. On the other hand, home-based educators who register directly with the Department cannot expect to receive services from the Department beyond the registration and monitoring of their program.

Eligibility Criteria for Registration

While the registration of a home-based education program, like the registration of an independent school, represents a notice of intent to operate, public authorities cannot be expected to register anything as a home-based education program. A home-based education program should be distinguishable from school-based programs. It may be based upon either a philosophical or a religious perspective different from that of the public education system, but it should also be an academically credible program which respects the rights, freedoms, and moral principles upon which our society is based.

The Committee recommends that, in order to be registered, the parents:

- Must personally be directing the education program of their children; and
- Must have a written educational plan that is, in the opinion of the registering authority:
  - Not inconsistent with the *Goals of Education for Saskatchewan*; and
  - Not inappropriate for the age and development of the children in the program.

These eligibility requirements are not intended to diminish or to infringe on the rights of parents to provide their children with a home-based education program in accordance with their conscientious beliefs, subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.

To be "directing" the education program of their children, the parents must be responsible for and involved in the education of their children. This would not preclude the parents from hiring one or more tutors to assist with the academic instruction of their children; a group of home-based educators from organizing, from time to time, shared educational activities and field trips, etc.; the parents from enrolling their children in a correspondence or extension school; or the children from taking a course or program in a public or independent school. However, parents who establish a school in their home for their own children as well as for children from other families, or a group of parents who hire a teacher to teach their children in one of the families' homes should be required to register with Saskatchewan Education as an independent school, and to meet the requirements for a registered independent school.[4]

The intent of the written educational plan is for parents to demonstrate that they have a positive and constructive approach to the education of their children, before commencing their program. The written educational plan should contain the following elements:

- The parents' philosophy of education and the purpose of their home-based education program springing from their philosophy of education. This might also include the parents' overall philosophy or world view from which the parents have derived their particular philosophy of education.

- The learning objectives[5] for each child in the home-based education program for the current year. Following the *Goals of Education for Saskatchewan*, these objectives should:
    - Recognize the inherent worth and potential of each individual child;
    - Address the various aspects of child development, such as spiritual, ethical, intellectual, emotional, and physical development;
    - Develop knowledge, skills, and attitudes for living in society; and
    - Lay a foundation for life-long learning.

- The learning environment for the home-based education program; the expected educational activities; and the instructional and support materials which the parents intend to utilize in order to achieve the learning objectives for the current year.

Parents who meet these eligibility criteria should have the right to register their program as a registered home-based education program. Each registering authority should consider each registration in accordance with the principles of freedom of conscience and religion in education and fundamental justice. The registering authority should also have the onus, if it does not intend to register the program, to demonstrate that the plan is not consistent with the *Goals of Education for Saskatchewan*, or not appropriate for the age and development of the children in the program.

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[4] See *The Independent Schools Regulations*, section 3, and the *Independent Schools Policy Manual*, policies A.1.1, A.1.2, and A.1.3 (May 1991).

[5] "Learning objectives" describe specific skills, abilities, knowledge, attitudes, and values which students are intended to develop in their educational program. See Saskatchewan Education, *Core Curriculum Guides: Standardization of Contents and Format* (September 1991), for a definition and discussion of "learning objectives".

Responsibilities of Registering Authorities

Once it has registered a home-based education program, the registering authority should become responsible for:

- Providing information, at the request of parents, on provincial and local policies with respect to home-based education;
- Preparing and transmitting reports and returns to Saskatchewan Education with respect to home-based education programs;
- Establishing and maintaining a permanent record on each pupil; and
- Monitoring the home-based education program.

Since the parents, as directors of their home-based education program, have accepted the responsibility for the education of their children, no board of education, or any official whose duties require him or her to register, monitor, or provide services to home-based education programs should be liable for anything in good faith done, or omitted to be done, pursuant to or in the exercise or supposed exercise of these duties.

Responsibilities of Saskatchewan Education

Saskatchewan Education is presently in the middle of a major curriculum reform. Under Core Curriculum, the Department is committed to a philosophy of resource-based learning that encourages all schools to provide students with access to a broad range of curriculum resource materials. While schools may and will continue to use textbooks as primary resource materials for specific programs and courses, a single textbook seldom addresses all of the foundational objectives of a particular program or course, nor can it meet the needs of all learners.

Thus, in addition to developing new programs and courses within the framework of Core Curriculum, the Department also assists public schools with identifying suitable curriculum resource materials by evaluating, approving, and/or recommending textbooks, learning resource materials, and teacher references for use with provincially developed programs and courses. Economies of scale in the development of programs and courses, and in the evaluation of textbooks, resource materials, and teacher references make it logical for the Department to be primarily responsible for these tasks.

Following the same logic, the Advisory Committee recommends that the Department should also assist boards of education with the registration of home-based education programs by developing and maintaining a materials list for home-based education programs in Saskatchewan. Home-based educators represent a philosophically diverse group of educators. Various publishers, suppliers, and support groups have arisen in response to this philosophical diversity. Such instructional and support materials, while potentially academically credible and appropriate for home-based education programs, would generally be too overtly religious or philosophical to be utilized in the public education system and to appear on the approved or recommended materials lists for public schools.

Like the recommended materials list for public schools, the materials list for home-based education programs would be neither restrictive nor prescriptive. Home-based educators could also choose instructional and support materials from other sources. Consistent with the registration, rather than the licensing of home-based education programs, the materials list would represent not an approval, but an acknowledgement by Saskatchewan Education that these materials could be used in home-based education programs. The materials produced by the various publishers, suppliers, and support groups represent a valuable resource to home-based educators, which neither Saskatchewan Education nor boards of education could or should attempt to duplicate.

Responsibilities of Boards of Education

Boards of education should be eligible to receive the basic per pupil recognition for each pupil in their school division who is registered with the board in a registered home-based education program. This would include grant recognition for Saskatchewan Correspondence School courses, special needs program funding, and designated pupil funding for children in registered home-based education programs.

In return, boards of education should be required to monitor each home-based education program. Similar to the inspection of registered independent schools,[6] "monitoring" should:

- Include checking compliance with the Act, the regulations, and the criteria for registration of a home-based education program on an ongoing and collaborative basis with the parents who are directing the home-based education program;
- Include observing or being cognizant of the educational activities of the home-based education program in order to protect the interests of society at large that the children in the home-based education program are receiving an education comparable in quality to that of children in the public schools;
- Include a recognition of the right of parents to direct the education of their children at and from their home in accordance with their conscientious beliefs;
- Not include responsibility for the hiring of tutors, or for the selection of programs, courses, textbooks, and resource materials in the home-based education program; and
- Include a respect for and recognition of the distinct philosophical orientation of each home-based education program.

Within their available resources, boards of education should also give fair consideration to fair requests to provide services to home-based educators, beyond registration and monitoring, that were similar to services normally available to other students in the school division. However, while boards of education would do their best to avail home-based educators of such resources which they already had, boards would retain the local autonomy to develop their own policies with respect to how home-based educators could access various kinds of services provided by the board in its school division. Boards of education are encouraged to develop these policies in collaboration with the home-based educators in their school division.

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[6] See *The Independent Schools Regulations*, clause 2(p), and the *Independent Schools Policy Manual*, policy E.1 (May 1991).

Similar to the independent schools policy on special needs students,[7] boards of education should be required to provide, at the board's expense, for assessment and diagnostic services for special needs students in registered home-based education programs. While parents may educate their children at home in order to achieve philosophical or religious objectives which may not or cannot be satisfied within the public educational system, for which parents expect to pay extra, the needs of special needs students are of a different character. The assessment and diagnostic needs of special needs students are specialized educational needs which it is the responsibility of public authorities to meet for all students, however they are receiving their education.

However, once an assessment has been made, the parents should remain responsible for making appropriate instructional adjustments, if any, to the child's program, with the assistance of board of education officials, upon request of the parents.

Upon initial registration, or upon renewing the registration of a home-based education program, if a registering authority is aware of a special needs situation, then it should take this into account when reviewing the written educational plan for the children, since the written educational plan should not be inappropriate for the age and development of the child.

In this respect, when reviewing an initial registration or a renewal, since the onus is on a registering authority to demonstrate that a written educational plan might not be appropriate for the age and development of a child, the responsible public officials should also be able to initiate the assessment and diagnosis of a child either before or after the commencement of a home-based education program. While public authorities should assume, when registering or monitoring home-based education programs, that the parents will provide or are providing their children with an education comparable in quality to that of children in the public education system, the authorities must have open access at reasonable times in order to substantiate a concern, if necessary, that the program might not be appropriate for the age and development of a particular child.

Secondary Level Credits and Standing

Registering authorities should provide information, at the request of parents, on the current provincial policies with respect to issuing secondary level credits and secondary level standing.

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[7] See *The Independent Schools Regulations*, clause 29(2)(e), and the *Independent Schools Policy Manual*, policy B.5 (January 1992).

As previously mentioned, the Advisory Committee concluded that it would be impractical and inappropriate to consider accrediting home-based education programs. Therefore, apart from entering or re-entering the public education system or an accredited independent school at the secondary level, students in registered home-based education programs will only be able to achieve secondary level credits (1) by taking correspondence courses from the Saskatchewan Correspondence School, or another accredited correspondence or extension school; or (2) by challenging the provincial Grade 12 departmental examinations for 100 percent.

At present, by taking correspondence courses, students could conceivably obtain complete secondary level standing (24 credits). However, while students may challenge the Grade 12 departmental examinations before they are 18 years of age, on the basis of departmental examinations alone, they can only achieve Grade 12 standing, not complete secondary level standing, and only after they attain 18 years of age.[8]

Settlement of Disputes

The Advisory Committee's recommendations vest considerable responsibility in registering authorities with respect to some areas of fundamental importance to home-based educators, such as the registration of home-based education programs, written educational plans, monitoring home-based education programs, and cancellation of registered home-based education programs.

While home-based educators accept that somebody has to make decisions of this nature, and while public authorities do not carry out their legal responsibilities with the intent of provoking disputes, nonetheless in the nature of relations between the state and its citizens, disputes do occur. The Advisory Committee concurs with *The Education Act* that it is better to make provision for the amicable resolution of such disputes before, rather than after any diputes arise. Since the Act was consolidated and redrafted in 1978, "fundamental justice" has been one of its foundational principles.

First, similar to the suspension of a pupil from a public school,[9] and similar to the suspension or cancellation of a Probationary "B" Teaching Certificate or Letter of Eligibility to Teach,[10] the Advisory Committee recommends that registering authorities should give the parents an opportunity to be heard before cancelling the registration of a home-based education program.

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[8] Complete secondary level standing (24 credits) represents high school graduation from the public education system. While Grade 12 standing alone may be acceptable for entrance into the province's post-secondary institutions, it does not represent high school graduation from the public education system.

[9] See subclause 153(3)(b)(ii) of *The Education Act*.

[10] See *The Independent Schools Regulations*, section 13, and the *Independent Schools Policy Manual*, policy G.2 (May 1992).

Second, consistent with current legislation and practice in the public education system,[11] the Advisory Committee recommends that boards of education should retain the local autonomy to establish their own policies for reviewing disagreements at the local level. These policies should specify the matters which can be referred to such a review mechanism and the procedures for reviewing the matters so referred. However, in the interests of bringing the two parties together, rather than driving them apart, the Committee strongly suggests that potential disagreements should be reviewed **before**, rather than after decisions are made by board of education officials. At the initiative of either party, the two parties might each select one appropriately-trained individual, mutually acceptable to both parties, jointly to review the disagreement that had arisen.

Third, the Advisory Committee recommends that there should be a provincial-level Home-Based Education Review Board, similar to the Independent Schools Review Board, for the purposes of (1) reviewing the implementation of the new legal framework for home-based education in the province; (2) monitoring and reviewing the direct registration of home-based educators with the Department of Education; and (3) reviewing, as called upon, disputes at the local level which are referred to it. However, the Home-Based Education Review Board should only review unresolved disputes from the local level on issues relating to **process**, not on issues relating to **substance**, since, where the professional judgment of a board of education offical is being called into question, such judgments should be reviewed, in the first instance, by an official's peers.

Conclusion

Throughout the course of its work, the Advisory Committee made no attempt to prioritize the interests of the children being educated at home, their parents, and the public at large. Rather the Committee attempted to balance the interests of the three groups. The proposed relationship between boards of education and home-based educators recognizes freedom of conscience and religion in education as well as fundamental justice. In accordance with the *Jones* decision, parents who educate their children at home must obtain an exemption from the regular scheme of education in the province. Boards of education will consider these exemptions recognizing freedom of conscience and religion in education, the rights of children, the rights of parents, the compelling interest of the state in education, and fundamental justice for all.

Insofar as the Committee is aware, the Advisory Committee on Home-Based Education has examined the issues surrounding home-based education in a more comprehensive way, involving all the major partners in the educational system, than any other province. Within its mandate, the Committee has addressed all the questions raised by the Deputy Minister and by the organizations represented on the Committee. Accordingly, if the Government of Saskatchewan implements these recommendations, then Saskatchewan will have the most comprehensive legal framework governing home-based education of any province in Canada.

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[11] See subsection 151(2) of *The Education Act*.

Table 1

Advisory Committee on Home-Based Education: Membership

Representatives from the public education system

1. Saskatchewan School Trustees Association

   William A. Wells, Employee Relations Consultant

2. Saskatchewan Teachers' Federation

   Derwyn Crozier-Smith, Executive Assistant

3&4. League of Educational Administrators, Directors, and Superintendents

   J. Tim Peake, Director of Education, Herbert School Division No. 79

   Merv Grosse, Director of Education, North Battleford School Division No. 103

Representatives from home-based education/independent schools

5-7. Saskatchewan Home-Based Educators

   Fred Funk, Past-President, McMahon

   Pamela Mason, Saskatoon

   Jean Wenig, Image Extension School, Prince Albert

8. Saskatchewan Independent Schools

   Sharon Foreman, Heritage Christian School, North Battleford

Others

9&10. Members At-Large

   Sandra Hill, Vice-Principal, Carlton Comprehensive High School, Prince Albert

   Ardele Gorman, Co-ordinator of Student Services, Swift Current S.D. No. 94

11. Chairperson

   Ernie Cychmistruk, Regional Director of Education, Region 6, North Battleford

12. Secretariat

   Chris Gerrard, Independent Schools Branch, Saskatchewan Education

Summary of Recommendations

Accountability

(A.1) That home-based education programs be called "home-based education programs".

(A.2.1) That there be only one category of home-based education programs called "registered home-based education programs".

(A.2.2) That the registration of a home-based education program does not, in and of itself:

- Confer eligibility of the children for secondary level credits or secondary level standing; or
- Establish the grade, level, or year in which the children are entitled to be enrolled in a public or independent school.

(A.3.1) That in order to be registered, the home-based education program must meet the following eligibility criteria:

- The parents must personally be directing the education program of their children; and
- The parents must have a written educational plan that is, in the opinion of the registering authority:
  - Not inconsistent with the *Goals of Education for Saskatchewan*; and
  - Not inappropriate for the age and development of the children in the program.

(A.3.2) That the registration of a home-based education program is a notice of intent to operate a home-based education program.

(A.3.3) That parents who are providing their own children with a home-based education program that meets the eligibility criteria for a home-based education program have the right to register their program as a registered home-based education program.

(A.4) That there be no regulations or policies with respect to the qualifications of parents apart from the requirement that parents must personally be directing the home-based education program of their children.

(A.5.1) That all Saskatchewan children of compulsory school age who are not attending a public school must be attending either:

- A registered independent school; or
- A registered home-based education program;

Unless exempted from attendance pursuant to clauses 156(b) to (j) of *The Education Act*.

(A.5.2) That all parents who are currently providing or intending to provide their own children of compulsory school age with a home-based education program must register, either with a public board of education, or, for a transitional period of time, directly with Saskatchewan Education.

(A.5.3) That parents register with a registering authority on a form prescribed by Saskatchewan Education.

(A.5.4) That once a registering authority has registered a home-based education program, the registration be valid until the end of the current school year (June 30) and renewable annually.

(A.6.1) That when registering their home-based education program, parents explicitly accept the responsibility for the education of their children in the home-based education program.

(A.6.2) That no board of education, or any official whose duties require him or her to register, monitor, or provide services to home-based education programs be liable for anything in good faith done, or omitted to be done, pursuant to or in the exercise or supposed exercise of these duties.

(A.7.1) That each registering authority must consider each registration in accordance with the principles of:

- Freedom of conscience and religion in education; and
- Fundamental justice.

(A.7.2) That a registering authority not register a home-based education program until a designated official employed by the registering authority has met at least once with the parent(s), by mutual consent, not necessarily in the family's home, in order to discuss the various aspects of the proposed home-based education program.

(A.7.3) That once a registering authority has registered a home-based education program, the authority become responsible for:

- Providing information, at the request of parents, on provincial and local policies with respect to home-based education;
- Preparing and transmitting reports and returns to Saskatchewan Education with respect to home-based education programs;
- Establishing and maintaining a permanent record on each pupil; and
- Monitoring the home-based education program.

Curriculum, Instruction, and Evaluation

(B.1.1) That each registered home-based education program must have a written educational plan that is:

- Not inconsistent with the *Goals of Education for Saskatchewan*; and
- Not inappropriate for the age and development of the children in the program.

(B.1.2) That these requirements are not intended to diminish or to infringe on the individual conscience of the parents who are directing the home-based education program, subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.

(B.1.3) That at initial registration, the parents provide the registering authority with a written educational plan for their children which contains the following elements:

- The parents' philosophy of education and the purpose of their home-based education program springing from their philosophy of education. This may also include the parents' overall philosophy or world view from which the parents have derived their particular philosophy of education.

- The learning objectives[1] for each child in the home-based education program for the current year. Following the *Goals of Education for Saskatchewan*, these objectives should:
  - Recognize the inherent worth and potential of each individual child;
  - Address the various aspects of child development, such as spiritual, ethical, intellectual, emotional, and physical development;
  - Develop knowledge, skills, and attitudes for living in society; and
  - Lay a foundation for life-long learning.

- The learning environment for the home-based education program; the expected educational activities; and the instructional and support materials which the parents intend to utilize in order to achieve the learning objectives for the current year. (Where applicable, the latter should include reference to the major supplier, if any, of instructional and support materials for the home-based education program, such as a correspondence school or an extension school.)

(B.1.4) That the registering authority **receive** the written educational plan for each home-based education program before accepting the registration. The registering authority has the onus, if it does not intend to register the program, to demonstrate that the written educational plan is:

- Inconsistent with the *Goals of Education for Saskatchewan*; or
- Inappropriate for the age and development of the children in the program.

(B.1.5) That subsequently, the registering authority monitor the registered home-based education program in accordance with the written educational plan submitted by the parents for their children.

(B.2.1) That Saskatchewan Education continue to provide, either directly or indirectly, access to a correspondence school program for the elementary, middle, and secondary levels of schooling.

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[1] "Learning objectives" describe specific skills, abilities, knowledge, attitudes, and values which students are intended to develop in their educational program. See Saskatchewan Education, *Core Curriculum Guides: Standardization of Contents and Format* (September 1991), for a definition and discussion of "learning objectives".

(B.2.2) That Saskatchewan Education develop and maintain a materials list for home-based education programs, and publish this in a manner that is efficient and convenient for registering authorities to utilize in registering home-based education programs.

(B.2.3) That the materials list for home-based education programs represent an **acknowledgement** by Saskatchewan Education that the materials on the list may be used in home-based education programs, not necessarily an **approval** by the Department for use in home-based education programs.

(B.2.4) That the materials list comprise materials from which home-based educators may choose their instructional and support materials for their home-based education programs. The list being neither restrictive nor prescriptive, home-based educators may also choose instructional and support materials from other sources.

(B.2.5) That the following appear on the materials list for home-based education programs:

- Textbooks, learning resource materials, and teacher references that appear on the approved and recommended materials lists for public schools;
- Courses, textbooks, and learning resource materials that are being supplied by the Saskatchewan Correspondence School;
- Textbooks that appear on the approved materials list for independent schools; and
- Courses, textbooks, learning resource materials, and teacher references that are presently being used in registered or accredited independent schools in Saskatchewan.

(B.2.6) That any parent who is directing a home-based education program for his or her children, or any registering authority may request that additional courses, textbooks, or learning resource materials be added to the materials list for home-based education programs. Such requests should:

- Be in writing;
- Indicate the subject(s) and grade level(s) for which the textbooks or learning resource materials should be used;
- Provide reasons why these courses, textbooks, or resource materials should be added to the materials list for home-based education programs.

(B.2.7) That when Saskatchewan Education receives such a request, the Department evaluate each request in accordance with:

- Consistency with the *Goals of Education for Saskatchewan*;
- Appropriateness for the age and development of the child; and
- Respect for the academic integrity of the discipline, subject, or area of study in question. Materials must sustain both the core bodies of knowledge upon which the disciplines are founded and the principles by which the disciplines generate new knowledge.

(B.3.1) That home-based educators may continue to strengthen their programs with the help of various publishers, suppliers, and support groups.

(B.3.2) That, in the future, Saskatchewan Education consider and review the question of independent extension schools' registering directly with the Department of Education.

(B.4.1) That upon entry or re-entry into the public education system, public school principals place in-coming students from home-based education programs at the appropriate grade level in a fair and equitable manner.

(B.4.2) That registering authorities be responsible for providing information, at the request of home-based educators, on the current provincial policies with respect to issuing secondary level credits and secondary level standing.

(B.5.1) That each registering authority establish and maintain a permanent record for each child in each home-based education program.

(B.5.2) That parents who are educating their children at home be responsible for establishing and maintaining a cumulative record of their children's progress on the home-based education program.

Funding, Services, and Special Needs Students

(C.1) That boards of education be eligible to receive the basic per pupil recognition for each pupil in their school division who is registered with the board in a registered home-based education program.

(C.2.1) That registering authorities be responsible for monitoring registered home-based education programs.

(C.2.2) That "monitoring":

- Includes checking compliance with the Act, the regulations, and the criteria for registration of a home-based education program on an ongoing and collaborative basis with the parents who are directing the home-based education program;
- Includes observing or being cognizant of the educational activities of the home-based education program in order to protect the interests of society at large that the children in the home-based education program are receiving an education comparable in quality to that of children in the public schools;
- Includes a recognition of the right of parents to direct the education of their children at and from their home in accordance with their conscientious beliefs;
- Does not include responsibility for the hiring of tutors, or for the selection of programs, courses, textbooks, and resource materials in the home-based education program; and
- Includes a respect for and recognition of the distinct philosophical orientation of each home-based education program.

(C.2.3) That when monitoring the registered home-based education program, the registering authority:

- Respect the written educational plan of each home-based education program; and
- Check for conformity of educational practice with respect to this written educational plan.

(C.3.1) That upon request of a parent who is directing a home-based education program, a board of education may provide services, in addition to registration and monitoring, for the purpose of enhancing the home-based education program, leading to improved instruction and improved learner outcomes.

(C.3.2) That each board of education develop policies with respect to how home-based educators can access various kinds of services provided by the board in its school division.

(C.4.1) That each board of education be eligible to receive special needs program funding and designated pupil funding for special needs students in home-based education programs who are registered with the board of education.

(C.4.2) That each board of education develop policies with respect to how home-based educators can access the various special needs services in the school division.

(C.4.3) That each board of education provide or arrange, at the request of the parents and at the board's expense, for assessment and diagnostic services for special needs students in registered home-based education programs.

(C.4.4) That, if a registering authority is aware of a special needs situation, then the registering authority:

- Should take this into account when reviewing the written educational plan for the student, upon initial registration or renewal of the home-based education program; and
- Could initiate the assessment and diagnosis of a student either before or after the commencement of a home-based education program.

Settlement of Disputes

(D.1.1) That a registering authority invite and consider any written or oral submissions from the parents who are directing a home-based education program before making any decision to cancel the registration of a home-based education program.

(D.1.2) That decisions to cancel the registration of a home-based education program be made in a fair and consistent manner, taking into account the interests of the children and the parents concerned.

(D.2.1) That each board of education develop, in conjunction with the home-based educators in its school division, a policy for reviewing disagreements between board of education officials and home-based educators with respect to the administration of home-based education policies in the school division.

(D.2.2) That this policy specify:

- The matters which may be referred to this review mechanism; and
- The procedures for reviewing the matters so referred.

(D.2.3) That, at the initiative of either party, potential disagreements between board of education officials and home-based educators be reviewed **before**, rather than after decisions are made by board of education officials.

(D.3.1) That the Minister of Education establish a Home-Based Education Review Board consisting of a chairperson, nominated and appointed by the minister, and representatives nominated by each of the following organizations or groups:

- Saskatchewan Schools Trustees Association;
- Saskatchewan Teachers' Federation;
- League of Educational Administrators, Directors, and Superintendents (two representatives);
- Saskatchewan home-based educators (three representatives);
- Saskatchewan independent schools;
- Saskatchewan Education.

The chairperson shall not be a representative of any of the above groups.

(D.3.2) That the mandate of the Home-Based Education Review Board be:

- To review, as called upon, the implementation of the new legal framework for home-based education in Saskatchewan;
- To monitor and to review the direct registration of home-based educators with Saskatchewan Education;
- To review, as called upon, disputes at the local level which are referred to it; and
- To make recommendations to the Minister of Education with respect to home-based education policies and procedures, but only:
  - Arising out of disputes that are referred to it; or
  - On issues referred to the Review Board by the Minister.

(D.3.3) That the Home-Based Education Review Board only have the authority to review unresolved disputes at the local level on issues relating to **process**, not on issues relating to **substance**.

(D.4.1) That, in the case of registration with a board of education, the local attendance counsellor continue to be responsible for ensuring that the attendance provisions of *The Education Act* are being met.

(D.4.2) That, in the case of direct registration with Saskatchewan Education, the Department work with local attendance counsellors in order to ensure that the attendance provisions of *The Education Act* are being met.

Chapter I

Background, Membership, Objectives, and Mandate

The need to develop more defined policies with respect to home-based education in Saskatchewan has arisen from a number of considerations.

Historically, home-based education in Saskatchewan was predominantly distance education for children who could not attend school. The Saskatchewan Correspondence School was established in 1925 with the explicit purpose, in its early years, of serving this group of children. Since 1977, however, the School has only offered high school courses directly, even though it still provides an elementary program indirectly in conjunction with the British Columbia Correspondence School.

Today, a new group of parents are choosing to educate their children at home, primarily for philosophical reasons. While there exists a broad continuum of philosophical perspectives among home-based educators in Saskatchewan, three major perspectives are child-initiated learning, popularized by John Holt; late introduction to academic learning, researched by Raymond and Dorothy Moore; and a traditional back-to-basics approach to learning with a Christian philosophical base. Various publishers, suppliers, and support groups have arisen in response to each of these various perspectives, as well as others.[1]

These parents are also educating their children at home in a legal climate, represented by the *Canadian Charter of Rights and Freedoms, 1982*. Consequently, while the Alberta case, *Jones* v. *The Queen*,[2] which was expected to shed light on the powers and responsibilities of provincial governments with respect to both independent schools and home-based education, was proceeding to the Supreme Court of Canada, the Government of Saskatchewan, like other provincial governments, delayed its response to the increasing numbers of both independent schools and home-based educators.

Then on March 13, 1987, after the Supreme Court of Canada had rendered its decision in the *Jones* case in November 1986, the provincial government announced the appointment of Gordon Dirks to conduct a study on private schooling in Saskatchewan, examining various aspects of both independent schools and home-based education.

The Minister of Education released the *Review of Private Schooling in Saskatchewan* in December 1987 and announced a number of new policies with respect to independent schools on June 27, 1988. With respect to home-based education, the Minister said that:

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[1] See Chapter V, pages 87-90, for an elaboration of these various philosophical perspectives on home-based education in Saskatchewan.

[2] (1987) 31 Dominion Law Reports (4th) 569.

> Saskatchewan Education will hold discussions with interested groups and school boards. Home schooling will continue to be permitted, but [the Minister] said he wants to see stronger supervisory procedures worked out to ensure that home schooled children receive a good education.

The Minister of Education proceeded to develop new legislation, regulations, and policies in two stages: first, for independent schools, and second, for home-based education. Effective July 1, 1989, he established an Independent Schools Branch in the Department of Education which was given responsibility for policy development with respect to independent schools and home-based education, and for administration with respect to independent schools. While the Department would henceforth be responsible for inspection and supervision of independent schools, public boards and directors of education would remain responsible for administering home-based education policies.

In October 1989, the Minister appointed an Advisory Board on Independent Schools to make recommendations concerning regulations, policies, and procedures governing the operation of independent schools in Saskatchewan. Representing all the major educational organizations in the province, this Advisory Board met for the best part of a year, reached a consensus on all its recommendations, and submitted its final report to the Minister in October 1990. Once this first Advisory Board had completed its work, the Deputy Minister then proceeded to establish the present Advisory Committee, similar to the first Board, to help develop provincial regulations and policies with respect to home-based education.

In consultation with the major partners in Saskatchewan education, the Deputy Minister established the representative structure of the Advisory Committee: four representatives from the public education system; four representatives from home-based education groups and independent schools; two at-large representatives; and a secretariat and a chairperson (both from the Department). Each of the organizations represented on the Committee was invited to name its own representative(s) to the Committee.[3]

In her letter of invitation, the Deputy Minister established the purpose of the Advisory Committee as follows:

> To make recommendations with respect to legislation, regulations, and policies governing home-based education in Saskatchewan:
>
> 1. That permit children educated at home to be accepted in the wider society at large for the education that they have achieved at home, whether these children choose:
>   (a) to enrol in a public, separate, or independent school;
>   (b) to seek employment in the public or private sectors; or
>   (c) to pursue post-secondary studies.
>
> 2. That respect the liberty of parents to educate their children at home in conformity with their conscientious beliefs.

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[3] See Table 1 for the complete membership of the Committee.

3. That protect the compelling interest of the state in education:
   (a) that all Saskatchewan children have access to (i.e. are not deprived of) a common, generally accepted standard of education; and
   (b) that parents are not inculcating values in their children which conflict with the rights, freedoms and moral principles upon which our society is based.

The Deputy Minister further instructed the Committee to make its recommendations in the context of the following guiding principles:

- The Government will not repeal the compulsory attendance provisions of *The Education Act*. Children of compulsory school age, who are not attending a public, separate, or independent school, will be required to be under a program of instruction at home or elsewhere;

- All parents who are educating their own children of compulsory school age at home will be required to register this fact, either directly or indirectly, with some public authority;

- Parents must provide a quality of education comparable to that of public schools. However, it is recognized that parents educate their children at home in order to achieve objectives which may not or cannot be satisfied within the public education system.

The Deputy Minister gave the Committee the latitude to discuss a wide-range of issues with respect to home-based education. However, at a minimum, the Deputy Minister mandated the Committee to address the following eight issues:

1. What methods of accountability should be put in place to ensure adequate instruction of children in home-based education programs?

2. What regulations, if any, should there be with respect to courses and programs of study in home-based education programs?

3. What regulations, if any, should there be with respect to the qualifications of parents who are educating their children at home?

4. What procedures should be put in place in order to recognize and/or assess the academic achievement of children in home-based education programs?

5. What access, if any, should children in home-based education programs have to facilities, programs, materials, equipment, and supplies in public, separate, or independent schools?

6. What regulations, if any, should be made with respect to special needs children in home-based education programs?

7. Who should pay the costs of home-based education programs, in all of their aspects, from materials, equipment, and supplies to inspection and supervision?

8. What mechanisms should there be in order to settle disputes arising from the administration of home-based education policies?

Chapter II

The Advisory Committee Process

The Advisory Committee on Home-Based Education met generally once a month for two six month periods, from January to June 1991 and January to June 1992, interrupted by the summer of 1991 and the provincial election in October 1991.

At its first meeting on February 1, 1991, the Committee agreed, as far as possible, to work on a consensus basis.[1] Where consensus was not achievable, voting would be by majority vote. However, a large (unspecified) majority of Committee members had to agree on each recommendation to the Deputy Minister. Any dissent would receive extensive attention in order to minimize the extent of dissent at the end of the process. Where the Committee could not agree on a recommendation with respect to a particular issue, then several options for dealing with this issue would be presented to the Deputy Minister, along with the views and reasoning behind the several options.

The Committee agreed to a quorum of eight, comprising at least *two* representatives from each of the three groups: public education, home-based educators/independent schools, and others.

Also at the first meeting, the secretariat presented an overview of home-based education in Saskatchewan,[2] including the numbers of home-based educators, the history of home-based education, why parents educate their children at home, major debates with respect to home-based education, and a list of publishers and suppliers of curricula to home-based educators in Saskatchewan.

At the second and third meetings of the Committee, in March and April 1991, in order to help the Committee formulate and categorize the specific questions to address, each of the organizations represented on the Committee made a presentation with respect to (1) their organization's goals and philosophy; (2) their membership and operation; (3) how they perceived their role in Saskatchewan education; and (4) their views on public education and home-based education, in the following order (which was drawn out of a hat):[3]

- Saskatchewan School Trustees Association: William A. Wells
- Saskatchewan Home-Based Educators: Fred Funk

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[1] See Appendix 3 for the "Advisory Committee Process", as agreed at the first meeting on February 1, 1991.

[2] See Appendices 4 and 5.

[3] See Appendices 7 to 12.

- Self-Guided Learners: Pamela Mason
- Image Extension School: Jean Wenig
- Saskatchewan Teachers' Federation: Derwyn Crozier-Smith
- Independent Schools: Sharon Foreman
- League of Educational Administrators, Directors, and Superintendents: Merv Grosse and J. Tim Peake

Then at the third and fourth meetings of the Committee, Sandra Hill reviewed the major findings of her M.Ed. thesis,[4] Ardele Gorman presented "A Developmental Perspective on Student Needs and Learning",[5] and the secretariat presented a summary of laws and regulations with respect to home-based education in other provinces.[6]

From the information received, the Committee formulated 20 questions which were categorized under four headings: (1) accountability; (2) curriculum, instruction, and evaluation; (3) funding, services, and special needs students; and (4) settlement of disputes.[7] Starting at the fourth meeting in May 1991, the Committee started working through these questions from beginning to end, attempting preliminary answers to each question, and then coming back later to review and to fine-tune its entire package of recommendations.

When it became evident that Committee members were interested, not only in the recommendations to the Deputy Minister but also in how these recommendations might be translated into provincial policies and guidelines, the Committee developed draft policy statements in a number of key areas:

- Home-based education programs: Registration criteria and process;
- Home-based education programs: Written educational plans;
- Materials list for home-based education programs;
- Monitoring home-based education programs;
- Services with respect to home-based education programs;

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[4] *An Investigation of Home-Schooling in Saskatchewan* (Saskatoon: University of Saskatchewan, 1988). See also Appendix 13.

[5] See Appendix 14.

[6] See Appendix 6.

[7] See Table 2.1 for the complete list of 20 questions.

- Suspension and cancellation of home-based education programs;
- Settlement of disputes at the local and provincial levels.

For the course of four meetings, the Committee's discussion centred on these draft policy statements. Then, at the ninth meeting in March 1992, having addressed each question at least once and having developed draft policy statements where appropriate, the Committee started to review the package of recommendations and policies in its entirety.

On one central issue, the Committee decided to seek clarification from the new Deputy Minister with respect to the Department's position: "Was the Department willing to consider direct registration of home-based education programs with the Department of Education?"

The Deputy Minister responded as follows:[8]

> I view the Committee as primarily an administrative committee charged with the task of recommending workable policies and procedures that will foster a harmonious and co-operative relationship between boards of education and home-based educators in each school division, and that outline the respective roles and responsibilities, while recognizing the respective rights and interests, of all parties involved. . . .
>
> I remain convinced that, for the long term, home-based educators and their children will be better served by registration with boards of education. However, I am willing to consider the direct registration of home-based educators with the Department, as a transitional arrangement, in the context of the long-term expectation that all home-based educators will register locally and in the context of encouraging, rather than compelling harmonious and co-operative relationships to develop.
>
> Boards of education would only receive grant recognition for home-based educators who are registered with them, and home-based educators who register with the Department could not expect to receive services from the Department beyond registration and monitoring. . . .
>
> I am not willing to consider the registration of home-based educators with registered or accredited independent schools in the province, nor the registration of independent extension schools directly with the Department.

With this clarification, the Committee instructed the secretariat to commence drafting the final report to the Deputy Minister. At its eleventh meeting on May 14, the Committee started reviewing this draft final report. At its fourteenth meeting on June 30, 1992, the Committee approved the final version of the report.

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[8] See Appendix 2 for the complete letter.

Table 2.1

Questions Addressed by the Committee

Accountability

(A.1) What should be the name of home-based education programs in legislation and regulation?

(A.2) What different categories, if any, should there be of home-based education programs?

(A.3) What should be the eligibility criteria for the registration of home-based education programs?

(A.4) What regulations and policies, if any, should there be with respect to the qualifications of parents who are educating their children at home?

(A.5) What should be the process for registering home-based education programs?

(A.6) Who should be liable for educational decisions in home-based education programs?

(A.7) What requirements, if any, should be placed on registering authorities with respect to the registration of home-based education programs?

Curriculum, Instruction, and Evaluation

(B.1) What regulations and policies, if any, should there be with respect to goals of education, and courses and programs of study in home-based education programs?

(B.2) What should be the role of Saskatchewan Education with respect to curriculum and instruction in home-based education programs?

(B.3) What should be the role, if any, of independent schools, correspondence schools, and extension schools with respect to curriculum and instruction in home-based education programs?

(B.4) What provisions, if any, should be put in place in order to recognize and/or assess the academic achievement of children in home-based education programs?

(B.5) What responsibilities, if any, should be placed on parents and registering authorities with respect to student records and reports of students' progress in home-based education programs?

Funding, Services, and Special Needs Students

(C.1) Who should pay the costs of home-based education programs, in all of their aspects, from registration and monitoring to materials, equipment, and supplies?

(C.2) What regulations, policies, and guidelines, if any, should be given to registering authorities with respect to monitoring home-based education programs?

(C.3) What access, if any, should students in home-based education programs have to facilities, programs, materials, equipment, and supplies in public schools?[1]

(C.4) What provisions, if any, should be made with respect to special needs students in home-based education programs?

Settlement of Disputes

(D.1) What recommendations should be made with respect to the suspension and cancellation of home-based education programs?

(D.2) What recommendations should be made with respect to the settlement of disputes arising from the administration of home-based education policies?

(D.3) What process, if any, should there be for reviewing and evaluating the new legal framework that is put in place?

(D.4) What recommendations, if any, should be made with respect to enforcing compulsory attendance and prosecution of unregistered home-based education programs?

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[1] Throughout the remainder of this report, unless otherwise stated, the term "public school" encompasses separate and fransaskois schools as well, and the term "board of education" encompasses both public and separate boards of education.

Chapter III

Guiding Principles

The Advisory Committee began its work on February 1, 1991, by agreeing upon a process to achieve the purposes of the Committee. In her letter of invitation to organizations to name their representatives to the Committee, the Deputy Minister reiterated certain aspects of the constitutional and legal framework surrounding home-based education, and established a policy framework for the Committee.

During the course of its deliberations, the Committee expanded upon the constitutional and legal framework and the policy framework provided by the Deputy Minister. The Committee also developed a number of operational principles surrounding its decisions, which, taken together, represented an operational framework.

Hence, the purpose of this chapter is to present and to discuss the constitutional and legal framework, the policy framework, and the operational framework, each of which guided the Committee in making its recommendations. The complete list of 15 principles under these three headings is found in Table 3.1 at the end of this chapter.

Much of the present chapter is similar to Chapter III, also entitled "Guiding Principles", in the *Final Report of the Minister's Advisory Board on Independent Schools*, since the rights, interests, and responsibilities of children, their parents, and the public at large are similar for home-based education as for independent schools, both being alternatives to the public education system. With the necessary changes being made, in order to reflect the context of home-based education, the material is repeated here, where appropriate, in order for the present report to be a self-contained report.

As before, this Committee acknowledges a debt to Professor Howard McConnell, Professor of Constitutional Law, University of Saskatchewan, for his contribution as the legal advisor to the Minister's Advisory Board on Independent Schools, without which neither that Chapter III nor this one could have been written.

Constitutional and Legal Framework

1. **Every child has a right to an education. Education is the very foundation of good citizenship and should develop the potential of all children in a changing world. Education should affirm the worth of each individual and lay a foundation for learning throughout life.**

This principle is stated in many forms and in many places, such as Saskatchewan's *Education Act*, *The Saskatchewan Human Rights Code*, and international declarations to which Canada has assented, and has been supported by judicial interpretation of *The Charter of Rights and Freedoms* since 1982.

Saskatchewan's *Education Act*, subsection 144(1), states that:

> Every person between the ages of six and 21 years shall have the right to attend school in the division in which he or his parents or guardian are resident, and to receive instruction appropriate to his age and level of educational achievement in courses of instruction approved by the board of education in the school or schools of the division.

The Saskatchewan Human Rights Code,[1] subsection 13(1), states that:

> Every person and every class of persons shall enjoy the right of education in any school, college, university or other institution or place of learning, vocational training or apprenticeship without discrimination because of his or their race, creed, religion, colour, sex, marital status, physical disability, nationality, ancestry or place of origin.

Recent international conventions such as *The International Covenant on Economic, Social, and Cultural Rights*, Article 13(1),[2] and *The United Nations Convention on the Rights of the Child*, Article 28,[3] also affirm the right of every child to an education.

These conventions form part of international law, and in international law are part of the common law of Canada.[4] While a local statute that clearly contradicted international law would be enforced in Canada, such a statute would violate Canada's international obligations. As Professor Peter Hogg says of *The International Covenant on Economic, Social and Cultural Rights*, its terms "are relevant to the interpretation of *The Charter*, by virtue of the rule that a statute (and presumably a constitution) should be interpreted as far as possible into conformity with international law."[5] Whether or not the mentioned covenants are actually implemented in local legislation, a nation such as Canada which has become a party to them is under a duty to act in conformity with their provisions, and it is the principles of public international law and not domestic law which govern the interpretation of treaties.[6]

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[1] Saskatchewan Statutes 1979, c. S-24.1.

[2] "The States Parties to the present Covenant recognize the right of everyone to education." United Nations General Assembly Official Records, 21st session, 49 U.N. Doc. A/6316 (1966), 993 U.N.T.S. (in force for Canada, August 19, 1976).

[3] "States Parties recognize the right of the child to education." U.N. Doc. E/CN.4/1989/29 (16 February 1989).

[4] See, for example, *Foreign Legations Case*, (1943) Supreme Court Reports 208; and *Saint John* v. *Fraser Brace Overseas Corp.* (1958) Supreme Court Reports 263.

Since 1982, the right of every child to an education has been further supported by judicial interpretation of *The Charter of Rights and Freedoms, 1982*. In *Jones* v. *The Queen*,[7] Justice La Forest cited approvingly the following passage from *Brown* v. *Board of Education of Topeka*, in support of this right:[8]

> [Education] is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.

That Canada is a "free and democratic" society also affects the type of education to which every person has a right. In *Jones* v. *The Queen*, Madam Justice Wilson cited approvingly the following passage from *R.* v. *Oakes*,[9] which would have interpretive force in this respect:

> The court must be guided by the values and principles essential to a free and democratic society which I believe embody, to name but a few, respect for the inherent dignity of the human person, commitment to social justice and equality, accommodation of a wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society.

Consistent with this passage, the official *Goals of Education for Saskatchewan* embody a student-centred approach to learning which recognizes the inherent worth and potential of each individual student; address all aspects of child development -- spiritual, ethical, intellectual, emotional, and physical; and address the knowledge, skills, and attitudes necessary for life-long learning and for living in society.

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[5] P. W. Hogg, *Constitutional Law of Canada*, 2nd edition (Toronto: 1985), p. 662.

[6] *Re Regina and Palacios* (1984), 45 Ontario Reports (2d) 269 (Ontario Court of Appeal).

[7] (1987) 1 Dominion Law Reports (4th) 569.

[8] 347 United States 483 (1954) 493.

[9] (1986) 24 Canadian Criminal Cases (3d) 346.

2. **Parents have the responsibility to provide for the education of their children and the right to direct their children's education at and from their home in accordance with their conscientious beliefs, subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.**

Like principle #1, this principle has been stated in many forms and in many places, such as *The Universal Declaration of Human Rights*, section 26(3),[10] *The International Covenant on Civil and Political Rights*, Article 13(3),[11] and *The United Nations Convention on the Rights of the Child*, Article 14.[12]

Based on these international declarations to which Canada has assented, on *The Charter*, and on the common law, it is indisputable that parents have this right.

In *The Charter*, it is noteworthy that freedom of conscience and religion -- which, at the elementary and secondary school level, is primarily a right exercised by parents on behalf of children -- is enshrined in section 2, subtitled "fundamental freedoms", which section enumerates the first such freedoms found in the whole document. Arguably the rights of freedom of conscience, religion, assembly, and expression set out therein are logically prior to all the other rights and freedoms which come later. Without observance of these initial freedoms, all the others would disintegrate. Such freedoms are part of the societal consensus reflecting a basic toleration of minority opinions and a right to dissent.

Complementary support for the rights of parents to educate and give moral instruction to their children may also, arguably, be found in section 26 of *The Charter* which reads: "The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights and freedoms that exist in Canada." Insofar as parents have historically enjoyed a right to rear and educate their children, this parental right should receive sustenance from this provision.

Even before *The Charter*, and before the establishment by law of provincial educational systems in nineteenth-century Canada, this parental right existed in common law, and can be supported on natural law premises as in *Chabot* v. *Lamorendiere*, where the Quebec Court of Appeal held that it was legally impermissible to impose Roman Catholic religious instruction on a Jehovah's Witnesses' child.

> If these rights find their source in positive law, they can be taken away. But if, as they do, they find their existence in the very nature of man, then they cannot be

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[10] "Parents have a prior right to choose the kind of education that shall be given to their children."

[11] This affirms the liberty of parents "to ensure the religious and moral education of their children in conformity with their own convictions."

[12] "States Parties shall respect the right of the child to freedom of thought, conscience and religion" and "the States Parties shall respect the rights and duties of the parents, and when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child."

> taken away, and they must prevail should they conflict with the provisions of positive law.[13]

In the United States the initial and still controlling precedent on the rights of parents to give their children a religious education outside of the public education system is *Pierce* v. *Society of Sisters*.[14] While American decisions are not, of course, binding in Canada, the Supreme Court of Canada has nonetheless found them to be helpful and persuasive in the case of analogous provisions in *The Canadian Charter of Rights and Freedoms* and the American constitution. So, for example, section 2(a) of *The Charter* is similar to the U.S. First Amendment, and section 7 of *The Charter* to the U.S. Fourteenth Amendment. Lacking Canadian precedents, the Supreme Court of Canada has drawn upon American precedents because the United States represents not simply the closest constitutional framework but also the closest social milieu to Canada.

The qualifying phrase in principle #2, "subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society," which is taken from section 1 of *The Charter*, reflects the fact that no rights are absolute. All rights are "subject to such limitations as are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."[15]

3. The Government of Saskatchewan has a compelling interest in the education of all Saskatchewan children, of which the primary vehicle is the public education system in its three dimensions -- public, separate, and fransaskois schools.

The Minister of Education has stated this principle many times, among other occasions, during the legislative debate on Bill 70, "An Act to amend *The Education Act*", which enabled the Minister to register, regulate, and inspect independent schools.[16] That the Minister was exercising his responsibility to put in place a legal framework for the operation of independent schools in Saskatchewan did not detract from the Minister's primary responsibility to the operation and maintenance of the public education system.

Similarly, that Saskatchewan Education is now developing more defined policies for home-based education in Saskatchewan does not detract from the Department's primary responsibility to the public education system.

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[13] 12 Dominion Law Reports (2d) 796 (Quebec Court of Appeal) 807.

[14] 268 United States 510 (1924). See also John C. Hogan, *The Schools, the Courts and the Public Interest*, 2nd edition (Lexington, Mass: Lexington Books, 1985), p. 135.

[15] *Regina* v. *Big M Drug Mart Ltd.* (1985) Supreme Court Reports 97-98.

[16] *Hansard*, Twenty-first Legislature of the Legislative Assembly of Saskatchewan (August 24, 1989), p. 4552. The actual phrase, "compelling interest", comes from *Jones* v. *The Queen*, *supra*, p. 592.

Indeed, the main purpose of *The Education Act* is to establish a legislative framework for the operation of public, separate, and fransaskois schools in Saskatchewan as "public authorities". As such, *The Education Act* lays out a whole congeries of duties and powers, requiring and enabling public and separate boards of education to do certain things. As statutory creations, they can typically do only those things which the parent Act authorizes them to do.[17] Established under *The Education Act*, they are clothed only with such powers as are conferred upon them by statute, or in certain instances by common law.[18]

The origin of the Canadian public education system can be traced back to the establishment of common schools as "public authorities" in the United Province of Canada after 1841. Prior to that time, all schools had been private schools, operated preponderantly by the Anglican, Roman Catholic, Presbyterian, and Methodist churches.

From the beginning, provision was made for the establishment of both common schools and separate schools, the latter operated by adherents of the minority faith, whether Protestant or Roman Catholic, whenever the majority of the minority faith in a particular common school district decided to establish a separate school district as well.

This was the formative time of the establishment of national systems of education in both Europe and North America. At this time, Western governments began to regard mass education as an instrument of national policy. A reality of this new educational climate in Canada was that private schools and home-schooling were not equal to the task of providing education for everybody. Also reflecting the spirit of that age, the resulting educational curricula represented a synthesis of Christianity and Enlightenment thought.

With Canadian Confederation in 1867, section 93 of *The Constitution Act, 1867*, both conferred legislative jurisdiction over education on the provinces and gave formal constitutional recognition to a pluralistic standard of education in Canada. Section 93 provided that no provincial law should prejudicially affect denominational school rights or privileges existing by law in a province at the union. Whenever Ontario or Quebec, in fact, derogated from the rights and privileges of such defined religious minorities, the federal cabinet had the remedial power to restore such rights or privileges, intervening in an area of provincial jurisdiction with a federal measure reinstituting the pre-existing situation. As Professor McConnell has stated, "that such an extraordinary recourse would be contemplated by federal action in a primary area of provincial jurisdiction shows the great sensitivity with which the Fathers of Confederation regarded minority religious educational rights."[19]

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[17] For such entities to go outside of the parameters of their statutory authorization would violate the principle of "the rule of law", ef. *Roncarelli* v. *Duplessis* (1959) Supreme Court Reports 121.

[18] Cf. L'Heureux-Dube J. in *Knight* v. *Indian Head S.D. No. 19* (1990) 69 Dominion Law Reports (4th) 489 (Supreme Court of Canada). For instance, that a board of education is a corporation, under section 33(1) of *The Education Act*, with the power to appoint and employ teachers, under clause 91(e), brings into play whole bodies of common law with respect the powers of corporations and employer-employee relationships.

[19] Saskatchewan Education, *Final Report of the Minister's Advisory Board on Independent Schools*, volume II, appendix 9, p. 43.

The Northwest Territories Ordinance of 1884 was the first legislation permitting the establishment of public schools in what is now Saskatchewan. Modelled on the Ontario legislation, it also made provision for both public and separate schools. On entering Confederation in 1905, section 17 of *The Saskatchewan Act* continued a framework for both public and separate schools. Section 17 supplemented section 93 with some entirely new provisions applicable to Saskatchewan, thereby spelling out the rights associated with separate schools with greater specificity than for some of the other provinces.

4. **The Government exercises the legislative authority to exempt children of compulsory school age from attendance at a public school.[20] In exercising this authority, however, public authorities must act in accordance with the principles of freedom of conscience and religion in education and fundamental justice.**

Compulsory attendance laws originated in Ontario in 1871, and existed in most provinces and territories by the 1890s, both to ensure an educated workforce for the industrial age as well as to counteract child labour practices.[21]

Such laws represented an assumption of power by the state and a corresponding diminution of parents' rights. Before such laws were enacted, parents had the right not to give their children a formal education. After the enactment of such laws, parents no longer had this right.

Indeed, the constitutional validity of the assumption of such powers by the state was a central issue in *Jones* v. *The Queen*. Larry Jones, pastor of Western Baptist Church in Calgary, educated his three children and others in his church's school. He refused either to apply either to the Department of Education for approval of his church school as a private school under clause 143(1)(e) of The Alberta *School Act*, or to apply to a Department of Education inspector or superintendent for a certificate of efficient instruction for a home-schooling program under clause 143(1)(a). Since he believed that his right and duty to educate his children came from God, "requesting the state for permission to do what he [was] authorized by God to do would, he assert[ed], violate his religious convictions",[22] contrary to *The Charter*, section 2(a).

He further contended that *The School Act* deprived him of his right to educate his children as he saw fit in a manner that was not in accordance with the principles of fundamental justice, contrary to *The Charter*, section 7. In particular, the Act conferred on someone employed by the school system, i.e. someone with a vested interest in that system, the power to judge whether a person outside that system was providing efficient instruction; and the Act limited the evidence of efficient instruction to a certificate signed by an inspector or superintendent of schools, thus preventing him a full answer and defence to the charge.

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[20] Throughout the remainder of this report, unless otherwise stated, the term "public school" encompasses separate and fransaskois schools as well, and the term "board of education" encompasses both public and separate boards of education.

[21] See George S. Tomkins, *A Common Countenance: Stability and Change in the Canadian Curriculum* (Scarborough, Ontario: Prentice-Hall Canada Inc., 1986), pp. 49-50 and 111-112.

[22] *Supra*, p. 588.

With respect to *The Charter*, section 2(a), Justice La Forest, speaking for the majority, found that the "purpose" of the Alberta *School Act* did not violate Larry Jones' freedom of religion. The Act did not give the government absolute control over the education of children. It mandated compulsory education but not education in a compulsory way. It specifically recognized the right of parents to choose, say, a religiously-based education for their children provided that the governmental education authorities deemed the education to be efficient.

However, Justice La Forest did find that the "effect" of *The School Act* constituted some interference with Larry Jones' freedom of religion,[23] but that this interference was saved by section 1 of *The Charter*. Requiring those who sought exemption from the general scheme of education in the province to make application for this purpose was a reasonable limit on a parent's religious convictions concerning the upbringing of his/her children that was "demonstrably justified in a free and democratic society". "To permit anyone to ignore it on the basis of religious conviction would create an unwarranted burden on the operation of a legitimate legislative scheme to assure a reasonable standard of education."[24]

Justice La Forest did not inquire how far the province could go in imposing conditions, such as the program of studies or the qualifications of the teachers in his school, if Larry Jones had applied for registration of his church school as a private school or for a certificate of efficient instruction. However, he did say:

> Certainly a reasonable accommodation would have to be made in dealing with this issue to ensure that provincial interests in the quality of education were met in a way that did not unduly encroach on the religious convictions of the appellant. In determining whether pupils are under "efficient instruction", it would be necessary to delicately and sensitively weigh the competing interests so as to respect, as much as possible, the religious convictions of the appellant as guaranteed by *The Charter*. Those who administer the province's educational requirements may not do so in a manner that unreasonably infringes on the right of parents to teach their children in accordance with their religious convictions. The interference must be demonstrably justified.[25]

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[23] Either an unconstitutional "purpose" or an unconstitutional "effect" can invalidate legislation. *Regina* v. *Big M Drug Mart*, *supra*, p. 331. While Justice La Forest wrote the judgment on behalf of the majority, only three out of the seven justices actually concurred with Justice La Forest on this particular point. Four out of seven found that even the effect of the Alberta *School Act* did not violate Larry Jones' freedom of religion with respect to the education of his children; rather the Act accommodated freedom of religion.

[24] *Ibid*, p. 594.

[25] *Ibid*, p. 593.

With respect to *The Charter*, section 7, Justice La Forest found that Larry Jones had not been deprived of his liberty to educate his children as he saw fit contrary to the principles of fundamental justice. Notwithstanding that a school inspector or superintendent had a vested interest in the public education system, Larry Jones should not have presumed that they would necessarily be biased in certifying or failing to certify that instruction was efficient. Some pragmatism was necessary in the administration of *The School Act* with respect to compulsory attendance. The province had to be given room to make choices regarding the type of administrative structure that would suit its needs without always an appeal to the courts.

It was sufficient to protect the individual against the disregard of his rights or unfairness by the school authorities at the point of application. If it could be established that the school authorities had dealt with his application in an unfair or arbitrary manner, then the courts could intervene.

> I have no doubt that if in exercising their functions the school authorities sought to impose arbitrary standards, i.e. standards extraneous to the educational policy under the Act, or if they in other respects acted in a manner that was fundamentally unfair, such as failing to examine the facts or to fairly consider the appellant's representations, the courts could intervene. But I am unable to categorize the issue as the appellant does.[26]

A subsequent Saskatchewan case, *The Queen* v. *Cline* has confirmed that public authorities must act fairly when receiving applications for home-based education. Citing the *Jones* case, and finding that the director of education gave no real consideration to Elizabeth Cline's application to educate her children at home, Justice Young held that "the decision of the director in this case was arbitrary and contrary to the principles of fundamental justice."[27] As to precisely what would represent procedural fairness, Justice Young offered only the following comment:

> The Saskatchewan *Education Act* must now be read in light of *The Canadian Charter of Rights and Freedoms*. *The Education Act* when read as a whole also has the underlying principle of equality of education throughout the province. If students are allowed to make use of a home school program as referred to by the Act as an exception for attendance in one school division, the same right should exist and should be governed by generally the same principles in another area of the province.[28]

As result of the *Jones* and *Cline* cases, a major part of the Advisory Committee's work has been to recommend policies and procedures which balance "delicately and sensitively" the respective interests of the children, the parents, and the state in order to respect, as much as possible, the conscientious beliefs of the parents in a manner which is consistent with the principles of fundamental justice.

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[26] *Ibid*, p. 597.

[27] K. J. Young, P.C.J. *Her Majesty the Queen* v. *Elizabeth Cline* (Saskatchewan provincial court at Turtleford, Saskatchewan, December 20, 1988), p. 13.

[28] *Ibid*, p. 13.

Freedom of conscience and religion being a "substantive" right and "fundamental justice" being a procedural right, that the two are complementary is a fundamental principle of our constitutional heritage that goes back to the *Magna Carta* in 1215 and the British *Bill of Rights* in 1689. In order for rights to be significant there must be a procedure to give them practical operation.

Since 1982, the Canadian term "fundamental justice", found in section 7 of *The Charter*, has come to be used in much the same sense as the American term "due process", found in the Fifth and Fourteenth Amendments. In *Den* v. *The Hoboken Land and Improvement Co.*,[29] Justice Curtis said that the words "due process of law" were meant to have the same meaning as "by law of the land", in *Magna Carta*. He said that the phrase was a restraint on all three branches of government. Congress could not make any process "due process". The concept was bound up with notions of equity and fair dealing.

"Fundamental justice" should apply to many aspects of the relationship between boards of education and home-based educators in each school division in Saskatchewan. Not only the registration, but also the suspension or cancellation of home-based education programs should be handled through clearly defined processes which reflect the principles of fundamental justice and administrative fairness.

The establishment of such processes is consistent with other areas of elementary and secondary education in Saskatchewan.[30] Since *The Education Act* was consolidated and redrafted in 1978, "fundamental justice" has been one of its foundational principles.

5. In the case of an alleged failure of parents to provide an adequate education for their children, the burden of proof resides with the government.

The principle is a general one in the relationship between public authorities and natural persons, since "the ability of each citizen to make free and informed decisions is the absolute prerequisite for the legitimacy, acceptability, and efficacy of our system of self-government."[31] The phraseology comes from the Ontario case, *Lambton County Board of Education* v. *Beauchamp*.[32] Because of her sincere religious convictions, Mrs. Beauchamp had removed her child from the public education system and was supervising her at home in a correspondence course offered by the Christian Liberty Academy. The court held:

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[29] 15 Lawyers' Edition 372 (1856) (United States Supreme Court).

[30] See Table 7.1.

[31] *Regina* v. *Big M Drug Mart*, *supra*, p. 105.

[32] (1979) 10 Reports of Family Law (2d) 354 (Ontario Prov. Ct.), p. 362.

> Those seeking to invoke the compulsive powers of the state in the face of the alleged failure of the parent or guardian to provide an adequate alternative, and thereby to impose the sanctions of a quasi-criminal legislation, have a substantial burden of proof.
>
> In this case the evidence tendered on behalf of the Lambton County Board of Education falls short of establishing beyond a reasonable doubt that Mireille Beauchamp is guilty of the offence charged.

The corollary is that public education authorities must have open access at reasonable times to home-based education programs in order to substantiate a concern that a particular program might not be appropriate for the age and development of a particular child. Before a program starts, public authorities can reasonably expect that parents should have a written educational plan which demonstrates a positive and constructive approach to the education of their children. Once a program has started, public authorities should be able to observe or be cognizant of the ongoing educational activities in the program. Such monitoring can encompass the intellectual, emotional, and physical development of the children in home-based education programs.

Policy Framework

6. The Government of Saskatchewan has the interest and the responsibility to put in place a legislative and regulatory framework for home-based education in Saskatchewan.

While some parents have legitimately educated their children at home ever since the province was founded, legislation, regulations, and policies that clearly define the legal status of home-based education programs have not been fully developed. Indeed, the main task of the Advisory Committee has been to recommend a comprehensive regulatory framework for the operation of home-based education programs in Saskatchewan.

In her original letter of invitations to organizations to name representatives to the Committee, the Deputy Minister stated that:

> The purpose of the Advisory Committee on Home-Based Education is to make recommendations to the Deputy Minister of Education with respect to legislation, regulations, and policies governing home-based education in Saskatchewan:
>
> 1. That permit children educated at home to be accepted in the wider society at large for the education that they have achieved at home, whether these children choose:
>   (a) to transfer to another school;
>   (b) to seek employment in the public or private sectors; or
>   (c) to pursue post-secondary studies.
>
> 2. That respect the liberty of parents to educate their children at home in conformity with their philosophical convictions; and

3. That protect the compelling interest of the state in education:
    - (a) that all Saskatchewan children have access to (i.e. are not deprived of) a common, generally accepted standard of education; and
    - (b) that parents are not inculcating values in their children which conflict with the rights, freedoms, and moral principles upon which our society is based.

The first two responsibilities are examples of the principle that, whenever a "right" is proclaimed, someone in society has a corresponding "responsibility" to bring effect to this right. Often that "someone" is the government.

In *Jones* v. *The Queen*, Justice La Forest refers to the "compelling interest" of the state in the education of its citizens, in the following terms:

> Whether one views it from an economic, social, cultural or civic point of view, the education of the young is critically important in our society. From an early period, the provinces have responded to this interest by developing schemes for compulsory education. Education is today a matter of prime concern to government everywhere. Activities in this area account for a very significant part of every provincial budget.[33]

7. The Government of Saskatchewan will not repeal the compulsory attendance sections of *The Education Act*. Children of compulsory school age, who are not attending a public or an independent school, will be required to be under a program of instruction at home or elsewhere.

At the present time, clause 156(a) of *The Education Act* provides the sole legislative recognition of home-based education in Saskatchewan, as an exemption from compulsory attendance at a public school.

> 155(1) Except as otherwise provided in this Act, every parent, guardian or other person having charge of a pupil who is of compulsory school age shall take all steps that are necessary to ensure regular attendance of that pupil:
> (a) at the school determined or authorized by the board of education of the division in which the pupil resides; and
> (b) for the period during which the school described in clause (a) is in operation in each year.
>
> 156 A pupil may be exempted from attendance at a school, and no parent, guardian or other person shall be liable to any penalty imposed by this Act, where
> (a) the pupil is under a program of instruction, approved by the director or superintendent at home or elsewhere;
> (a.1) the pupil is in attendance at a registered independent school.

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[33] *Supra*, p. 592. The use of the term "interest" is deliberate. Strictly speaking, the state does not possess "rights", it possesses "interests". Individuals, not the state, possess "rights".

Clause 156(a) dates back to the original educational legislation in the province and no longer reflects the present legal and cultural situation with respect to home-based education in Saskatchewan. For instance, prior to 1971, the educational chief executive officers of local school divisions were provincial superintendents employed by the Department of Education, and prior to that time, they were provincial "inspectors", also employed by the Department, who ensured that school units operated in accordance with *The School Act*. As employees of the Department, appointed by and accountable to the Minister, such superintendents and inspectors approved exemptions from compulsory attendance at a public school.

After 1971, however, as provincial superintendents retired, they were usually replaced by directors of education, appointed by and accountable to boards of education. Now, in 1992, since there no longer exist any provincial superintendents, directors of education are in the awkward position of acting as public authorities on behalf of the Minister, in respect of approving home-based education programs, while being employed by boards of education.

Nonetheless, the Department of Education is not willing to consider changes to the basic scheme of compulsory attendance in Saskatchewan. While acknowledging that clause 156(a) no longer reflects the present legal and cultural situation with respect to home-based education in Saskatchewan, the Deputy Minister views the Committee

> as primarily an administrative committee charged with the task of recommending workable policies and procedures that will foster a harmonious and co-operative relationship between boards of education and home-based educators in each school division, and that outline the respective roles and responsibilities, while recognizing the respective rights and interests, of all parties involved.[34]

The Committee's task has been to recommend policies and procedures which reflect the present cultural and legal situation, including *The Charter of Rights and Freedoms, 1982*, as interpreted by the courts, within the basic scheme of compulsory attendance in Saskatchewan.

8. All parents who are educating their own children of compulsory school age at home will be required to register this fact, either directly or indirectly, with some public authority.

In his *Review of Private Schooling in Saskatchewan*, Gordon Dirks examined this issue in some detail.[35]

According to the Dirks' Report, the Supreme Court of Canada upheld the constitutionality of clause 156(a) of Saskatchewan's *Education Act* in *Jones* v. *The Queen*. The Court held, in the Alberta context, that requiring parents of children in private schools either (1) to seek approval from the Department of Education for the operation of their private school, or (2) to seek a certificate of efficient instruction for a home-schooling program from a Department of Education inspector or superintendent, either did not violate Larry Jones' freedom of religion, or represented a reasonable limit on his freedom of religion that was "demonstrably justified in a free and democratic society".

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[34] See Appendix 2, the Deputy Minister's letter to Ernie Cychmistruk (April 10, 1992).

[35] (September 1987), pp. 43-46.

Notwithstanding the *Jones* decision, the Dirks' Report recommended a less obtrusive means of ensuring the state's legitimate interest in the education of Saskatchewan children. Finding clause 156(a) of Saskatchewan's *Education Act* to be "impractical and divisive", the Report recommended instead

> a private school regulatory mechanism which places the onus for inspection upon Department of Education officials, specifies criteria to be used when inspecting private schools, does not compel locally-employed Directors of Education to inspect private schools, places the burden of proof upon the Department of Education to persuade a competent third-party tribunal or court that a particular private school does not meet the test of satisfactory instruction and requires private schools to provide the Department with the necessary statistical and identifying information respecting the private school and its pupils.[36]

Also, subsequent to the *Jones* case, the Government of Alberta amended its *School Act* in 1988, providing for a less obtrusive registration process, as opposed to a licensing process, for schools like Larry Jones'. The Alberta Government was influenced both by the *Jones* decision itself and by the fact that Larry Jones chose to go to jail in October 1987 rather than acknowledge the government as the source of his right to educate his children in accordance with his religious convictions. To accept that a public board of education could grant him permission to carry out his God-given duty would be, he submitted, to accept the converse, that it could also refuse him such permission.

In his news release of June 27, 1988, the Minister of Education accepted the recommendation of the Dirks' Report for a registration and inspection process for independent schools in Saskatchewan, and the provincial Legislature amended *The Education Act* accordingly in August 1989. Registration involved a notice of intent to operate an independent school; licensing would have involved seeking permission to operate. Also, in the case of church-based schools, registration was more consistent with the practice of the separation of church and state. A license being the power to permit somebody to do something or to forbid somebody from doing something, only a higher power could license a lower power. By requiring independent schools only to be registered, the Minister thereby avoided the question of whether the state could legitimately license church-based schools, which, depending on one's interpretation, the Supreme Court did or did not answer in the *Jones* case.

However, the Dirks' Report did not recommend, nor did the Minister accept, that the Department of Education should register anything as an independent school, for example, a vacation Bible school or a summer camp. A major task of the Independent Schools Advisory Board was to define the minimum generic requirements for a registered independent school in terms of such things as school structure, days and hours of operation, goals of education, school curricula, qualifications of teachers, and school facilities. A major task of the present Advisory Committee has also been to define the minimum eligibility criteria for a home-based education program.

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[36] *Ibid*, p. 46.

Among other things, the Committee concluded that parents must personally be directing the education program of their children in a registered home-based education program. This would not preclude the parents from hiring one or more tutors to assist with the academic instruction of their children; a group of home-based educators from organizing, from time to time, shared educational activities and field trips, etc.; the parents from enrolling their children in a correspondence or extension school; or the children from taking a course or program in a public or independent school.

But parents who establish a school in their home for their own children as well as for children from other families, or a group of parents who hires a teacher to teach their children in one of the families' homes would be required to register with Saskatchewan Education as a registered independent school and to meet the requirements for a registered independent school.

9. Parents must provide a quality of education comparable to that provided by public schools. However, it is recognized that parents educate their children at home in order to achieve objectives which may not or cannot be satisfied within the public education system.

While, historically, home-based education in Saskatchewan was predominantly distance education for children who could not attend school, today, a new group of parents are choosing to educate their children at home, primarily for philosophical or religious reasons. Parents may base their home-based education program on either a philosophical or a religious perspective different from that of the public education system as long as the program is also academically credible.

Public, separate, fransaskois, and independent schools all exist to assist parents in educating their children. But, while separate, fransaskois, and independent schools generally cater to the unique wishes of a particular group of parents and children which, like home-based education, may be philosophically or religiously-based, public schools approach the spiritual goals of education[37] in the context of a pluralistic society.

Saskatchewan's 1901 *School Ordinance*,[38] which makes provision for religious instruction in sections 137-139, is still the relevant educational law with respect to religious instruction in the province's public and separate schools. But, in response to general societal trends, most public boards of education no longer exercise their discretionary authority with respect to religious instruction under this law. Indeed, two recent Ontario cases call into question the constitutionality of these provisions in respect of public schools, although not in respect of separate schools.

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[37] This is a direct reference to the spiritual goals of education for Saskatchewan: (1) To seek an understanding of the purpose and worth of human existence; (2) To develop a knowledge of God; and (3) To respect family, religion, and culture in a pluralistic society. See Table 5.1.

[38] Consolidated Ordinances, c. 75, section 1.

In *Zylberberg* v. *Sudbury Board of Education*,[39] the Ontario Court of Appeal held that local regulations requiring public schools to open and close each day with religious exercises, including the Lord's Prayer (subject to a right of non-participation for the children of non-concurring parents) were of no force and effect.

In *Canadian Civil Liberties Assn.* v. *Ontario (Minister of Education)*,[40] the Ontario Court of Appeal further prohibited religious instruction in public schools in Elgin County, where more than 90 per cent of the affected children belonged to Christian denominations.

The two rulings have not been appealed to the Supreme Court of Canada. Hence, they are simply persuasive, not binding, in other provinces, even in Saskatchewan whose early educational legislation was derived directly from Ontario. Because of section 17 of *The Saskatchewan Act*, which supplements section 93 of *The Constitution Act*, it is not altogether clear what the courts would rule in the case of religious exercises and religious education in Saskatchewan's public schools.

Nonetheless, the Ontario Court of Appeal ruled that provisions for parents to exempt their children either from religious exercises or from the teaching of religion were not sufficient protections of freedom of conscience and religion, since subtle pressures existed in such contexts to make children of religiously dissenting parents conform.[41]

The two rulings probably further mean that Ontario's public schools cannot teach academics from an overtly religious point of view, such as a Christian point of view. While the Ontario Court of Appeal has said that schools may teach about religion as, say, a sociological phenomenon that impacts our culture, they cannot teach religion *per se*. From a doctrinal point of view, their approach must be strictly neutral.

Parents of children in religiously-based independent schools generally desire that their schools hold regular religious exercises and religious instruction as well as teach academics from a religious philosophical point of view. Saskatchewan parents, who desire all three of these from a religious point of view other than Roman Catholic,[42] have no choice for their children except independent schools or home-based education.

It is noteworthy that section 2(a) of *The Charter*, which is confirming a secularistic trend in the public school system, is the same one that guarantees parents' rights to provide for the education of their children in accordance with their conscientious beliefs by enrolling them in religiously-based independent schools, or home-based education programs.

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[39] (1989) 52 Dominion Law Reports (4th) 577 (Ontario Court of Appeal).

[40] (1990) 71 Ontario Reports (2d) 341 (Ontario Court of Appeal).

[41] Accordingly, the rulings probably also mean that provisions to exempt children from attendance at controversial classes like family life education are not sufficient protections either.

[42] Although no such school divisions still exist in Saskatchewan, where the minority of electors in a school district is Protestant, as opposed to Roman Catholic, this minority could also establish a Protestant separate school division.

With respect to the Committee's deliberations, these considerations had important implications for its recommendations in respect of curriculum and instruction in home-based education programs. Given the secularistic trend in public education, programs and courses developed for public schools are not necessarily going to be appropriate for a home-based education program. For parental choice to be meaningful, the state has to acknowledge certain freedoms for home-based educators in respect of curricula, programs and courses.

In the light of these considerations, the word "comparable" in principle #9 clearly does not mean "the same". It does not mean that home-based education programs must be mere replicas of public schools. Parents educate their children at and from their home in order to achieve objectives which may not or cannot be satisfied within the public education system.

Canada prides itself on being a multicultural mosaic, not a melting pot. As Professor McConnell has indicated, a generally accepted standard of education in Canada has always been, since the foundation of the first public schools after 1841, a pluralistic standard of education.[43]

However, the Committee concluded that principle #9 does mean that home-based education programs should not be inconsistent with the *Goals of Education for Saskatchewan* or inappropriate for the age and development of the children in the program. While providing sufficient latitude to accommodate the aspirations of all parents for their children, this common set of educational goals is needed in order to provide a common sense of direction for our society. Children in home-based education programs should be able to enter or re-enter public, separate, or independent schools with a minimum of difficulty.

Also, while a degree of educational diversity is clearly a public good, it is only a public good as long as the graduates of different kinds of schools and home-based education programs can still live peaceably together in the same society. Taken to an extreme, educational anarchy is probably worse than total educational conformity. Home-based education programs should not be permitted to promote such things as racial or ethnic superiority, religious intolerance, social change through violent action, or sedition.[44] Rather, both public schools and home-based education programs should be promoting "understanding and relating to each other."[45]

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[43] Saskatchewan Education, *Final Report of the Minister's Advisory Board on Independent Schools*, volume II, appendix 8, p. 25.

[44] This particular list is taken from the British Columbia *Independent School Act, 1989*, which specifically prohibits independent schools that promote or foster such doctrines, in theory or in practice.

[45] This is a specific reference to the third category of the *Goals of Education for Saskatchewan*: (1) To act on the belief that each individual is worthwhile; (2) To base actions on the recognition that people differ in their values, behaviours, and life styles; (3) To interact and feel comfortable with others who are different in race, religion, status, or personal attributes; and (4) To develop a sense of responsibility toward others. See Table 5.1.

Operational Framework

10. As far as possible, the Committee will work on a consensus basis.

The Committee agreed to this operational principle at its first meeting on February 1, 1991. Furthermore, the Committee agreed that:

> Where consensus is not achievable, voting will be by majority vote, all 12 members having a vote. However, a large majority of Committee members present at each meeting must agree on each recommendation to the Deputy Minister. Any dissent should receive extensive attention in order to minimize the extent of dissent at the end of the process. Where the Committee cannot agree on a recommendation with respect to a particular issue, then several options for dealing with this issue should be presented to the Minister, along with the views and reasoning behind the several options.

Indeed, the two key elements of any Advisory Committee process are, first, the appropriate assembly of persons representing all relevant interest groups, in the present situation by the Deputy Minister of Education, and second, consensus-making by the representatives so assembled. Consensus is the result of interactive discussions, among equals, of all elements of the issues raised, each group providing input from their own particular perspective. Consensus is the *raison d'etre* of an Advisory Committee process. The resulting conclusions represent not only a compromise from positions that organizations previously held but also a compromise based on more information than organizations previously possessed at the beginning of the process.

11. The Committee acknowledges that some of its recommendations may require an amendment to provincial legislation. The Department of Justice will ultimately be responsible for determining which items must be in statute, which can go in regulation, and which can be handled simply as policy statements.

In her original letter of invitation to organizations to name their representatives to the Advisory Committee, the Deputy Minister stated that:

> The Minister of Education is willing to entertain recommendations from the Committee that would require changes to legislation in addition to the implementation of new regulations and policies with respect to home-based education. The Department of Justice will ultimately be responsible for determining which items must be in statute, which should be in regulation, and which can be handled simply as policy statements.

While the provincial legislature passed amendments to *The Education Act* in August 1989 in respect of independent schools, and while the recommendations of the Independent Schools Advisory Board were implemented largely in regulation, such may not be possible with respect to home-based education. For example, even if most of the recommendations could be implemented in regulation, it is not obvious that the provincial Cabinet presently possesses the legal authority to make regulations with respect to home-based education.

Hence, the Committee accepted as an operational principle not to be concerned if some of its recommendations would require changes in legislation.

12. As far as possible, the Committee will recommend legislation, regulations, and policies with respect to home-based education that are consistent with existing Saskatchewan educational practices, including the recently developed regulations and policies for independent schools.

Historically speaking, the original Alberta and Saskatchewan educational legislation was modeled after Ontario legislation. In the nature of things, however, notwithstanding certain national trends, the three provinces have diverged somewhat in terms of their educational policies, practices, and traditions. For example, the collaborative process of developing educational policy in Saskatchewan, going back to the 1940s and 1950s, is essentially unique to Saskatchewan.

For public education policy, this now involves the Department of Education, the SSTA, the STF, LEADS, and the two Colleges of Education. For independent schools policy, it also involves independent schools. For home-based education policy, with the establishment of this Advisory Committee, it now involves home-based educators.

In its deliberation, the Committee had access to *The Independent Schools Policy Manual* which the Department had developed subsequent to the Independent Schools Report. In following principle #12, these policies proved very useful to the Committee (1) since independent schools and home-based education are both alternatives to the public education system and (2) since, in drafting the independent schools policies, the Department attempted to maintain consistency with existing educational policies and practices in Saskatchewan, while respecting the rights of independent schools.

13. While the Committee has examined legislation and regulations pertaining to home-based education in other provinces insofar as these reflect a common constitutional and legal framework in Canada, the Committee's recommendations will represent a made-in-Saskatchewan regime for home-based education in Saskatchewan.

The recent growth of home-based education is a nation-wide phenomenon. As a result, a number of provinces have conducted internal or external studies on home-based education and many have amended or are in the process of amending their provincial legislation with respect to home-based education. For example, Alberta passed a new *School Act* in 1988, and British Columbia passed a new *School Act* in 1989, both of which contained significant changes for home-based education.

At its first meeting on February 1, 1991, the Committee commissioned its secretariat to conduct research on legislation and regulations pertaining to home-based education in other provinces, which report the secretariat presented to the Committee on April 19, 1991.

However, the Committee has examined the legislation and regulation in other provinces primarily for the extent to which these reflect the emerging constitutional and legal framework common to home-based education throughout Canada. In line with principle #12, a number of the Committee's recommendations are unique in the Canadian context, either because they reflect Saskatchewan's educational traditions, or because they represent a new departure from existing practices in other provinces.

14. The Committee will attempt to facilitate the effective operation of home-based education in Saskatchewan. Its recommendations will not be intended to have a negative impact on the ability of parents to educate their children at and from their home.

The Committee recognized that parents have legitimately educated their children at home ever since the province was founded. Indeed, the Saskatchewan Correspondence School was established in 1925 with the explicit purpose, in its early years, of serving this group of children. Since 1977, however, the School has only offered high school courses directly, even though it still provides an elementary program indirectly in conjunction with the British Columbia Correspondence Schools.

Today, a new group of parents are choosing to educate their children at home, primarily for philosophical reasons. While there exists a broad continuum of philosophical perspectives among home-based educators in Saskatchewan, three major perspectives are child-initiated learning, popularized by John Holt; late introduction to academic learning, researched by Raymond and Dorothy Moore; and a traditional back-to-basics approach to learning with a Christian philosophical base. Various publishers, suppliers, and support groups have arisen in response to each of these various perspectives, as well as others.[46]

The Committee attempted to facilitate the effective operation of home-based education programs in Saskatchewan. While ensuring the compelling interest of the state in the education of all children, the Committee's recommendations are not intended to have a negative impact on the ability of parents to educate their children at and from their home.

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[46] See Chapter V, pages 87-90, for an elaboration of these various philosophical perspectives on home-based education in Saskatchewan.

15. The Committee will attempt to promote a harmonious and co-operative relationship between boards of education and home-based educators in each school division.

This phraseology comes from the Deputy Minister's letter of April 10, 1992, clarifying the registration of home-based education programs in Saskatchewan.

In the Deputy Minister's words:

> I view the Committee as primarily an administrative committee charged with the task of recommending workable policies and procedures that will foster a harmonious and co-operative relationship between boards of education and home-based educators in each school division, and that outline the respective roles and responsibilities, while recognizing the respective rights and interests, of all parties involved.

While willing to consider the direct registration of home-based educators with the Department, as a transitional measure,

> in the context of the long-term expectation that all home-based educators will register locally, I would ask you to continue to focus your discussions and recommendations on the respective roles and responsibilities of, and the relationships between boards of education and home-based educators in each school division, recognizing, as always, the respective rights and interests of all parties involved.

The Committee concurred with the Deputy Minister in desiring to see home-based education become an integral part of the Saskatchewan education scene. In the past, both directors of education and home-based educators have in many cases misunderstood each other with respect to their respective roles and responsibilities for home-based education.

[illegible]

Constitutional and Legal Framework

1. Every child has a right to an education. Education is the very foundation of good citizenship and should develop the potential of all children in a changing world. Education should affirm the worth of each individual and lay a foundation for learning throughout life.

2. Parents have the responsibility to provide for the education of their children and the right to direct their children's education at and from their home in accordance with their conscientious beliefs, subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.

3. The Government of Saskatchewan has a compelling interest in the education of all Saskatchewan children, of which the primary vehicle is the public education system in its three dimensions -- public, separate, and fransaskois schools.

4. The Government exercises the legislative authority to exempt children of compulsory school age from attendance at a public school.[1] In exercising this authority, however, public authorities must act in accordance with the principles of freedom of conscience and religion in education and fundamental justice.

5. In the case of an alleged failure of parents to provide an adequate education for their children, the burden of proof resides with the government.

Policy Framework

6. The Government of Saskatchewan has the interest and the responsibility to put in place a legislative and regulatory framework for home-based education in Saskatchewan.

7. The Government of Saskatchewan will not repeal the compulsory attendance sections of *The Education Act*. Children of compulsory school age, who are not attending a public or an independent school, will be required to be under a program of instruction at home or elsewhere.

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[1] Throughout the remainder of this report, unless otherwise stated, the term "public school" encompasses separate and fransaskois schools as well, and the term "board of education" encompasses both public and separate boards of education.

8. All parents who are educating their own children of compulsory school age at home will be required to register this fact, either directly or indirectly, with some public authority.

9. Parents must provide a quality of education comparable to that provided by public schools. However, it is recognized that parents educate their children at home in order to achieve objectives which may not or cannot be satisfied within the public education system.

Operational Framework

10. As far as possible, the Committee will work on a consensus basis.

11. The Committee acknowledges that some of its recommendations may require an amendment to provincial legislation. The Department of Justice will ultimately be responsible for determining which items must be in statute, which can go in regulation, and which can be handled simply as policy statements.

12. As far as possible, the Committee will recommend legislation, regulations, and policies with respect to home-based education that are consistent with existing Saskatchewan educational practices, including the recently developed regulations and policies for independent schools.

13. While the Committee has examined legislation and regulations pertaining to home-based education in other provinces insofar as these reflect a common constitutional and legal framework in Canada, the Committee's recommendations will represent a made-in-Saskatchewan regime for home-based education in Saskatchewan.

14. The Committee will attempt to facilitate the effective operation of home-based education in Saskatchewan. Its recommendations will not be intended to have a negative impact on the ability of parents to educate their children at and from their home.

15. The Committee will attempt to promote a harmonious and co-operative relationship between boards of education and home-based educators in each school division.

Chapter IV

Accountability

Legislation and Regulations with Respect to Public Schools in Saskatchewan

Saskatchewan law requires parents or legal guardians to ensure, subject to quasi-criminal prosecution, that their children of compulsory attendance age (ages 7 to 16) are regularly attending a public school, unless exempted from attendance pursuant to certain specified exemptions. The relevant sections of *The Education Act* are as follows:

- 2 In this Act:
  (d) "board of education" means the board of education of a school division;
  (g) "compulsory school age" means having attained the age of seven years but not having attained the age of 16 years;
  (j) "department" means the Department of Education;
  (k) "director" means a director of education appointed by a board of education;
  (n) "division" or "school division" means a school division designated pursuant to section 18 and includes a public school division, a separate school division and a high school division;
  (r) "guardian" means a person who is not the natural parent of a child and who has been made responsible for the care of that child, and includes:
    (i) any person who has lawfully and formally received into his home another person's child who is of compulsory school age and who resides with him or is in his care or custody for the time being or until the child reaches the age of maturity; and
    (ii) a person appointed or recognized as a guardian of a child under *The Family Services Act*;
  (s.1) "independent school" means an institution:
    (i) in which instruction is provided to pupils of compulsory school age; and
    (ii) which is controlled and administered by a person that is not a public authority;
  (aa) "principal" means a teacher appointed by the board of education to perform the duties of the principal under the Act;
  (ee) "pupil" means a person who is enrolled in a school or registered independent school and includes any person who is of compulsory school age;
  (ee.1) "registered independent school" means an independent school registered pursuant to this Act and the regulations";
  (ff) "school" means a body of pupils that is organized as a unit for educational purposes under the jurisdiction of a board of education or of the department and that comprises one or more instructional groups or classes, together with the principal and teaching staff and other employees assigned to that body of pupils, and includes the land, buildings or other premises and permanent improvements

used by and in connection with that body of pupils but does not include an independent school;
(gg) "school day" means a day within the school year on which instruction is given or examinations or other educational activities are conducted and includes emergency closures and days authorized by the board of education for the purposes of educational conferences, meetings and conventions;
(hh) "school year" means the period commencing on July 1 in one calendar year and ending on June 30 in the next calendar year, both dates inclusive;
(nn) "superintendent" means a superintendent of education appointed by the department and includes a regional superintendent;

- 155(1) Except as otherwise provided in this Act, every parent, guardian or other person having charge of a pupil who is of compulsory school age shall take all steps that are necessary to ensure regular attendance of that pupil;
  (a) at the school determined or authorized by the board of education of the division in which the pupil resides; and
  (b) for the period during which the school described in clause (a) is in operation in each year.

(2) A parent, guardian or other person who neglects to discharge his duty and responsibility pursuant to subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than $100.

(3) Upon a conviction for an offence under subsection (2), the magistrate or judge may, in his discretion, substitute for and in the place of a fine the requirement that the person so convicted place a bond in the penal sum of $200, with such securities as may be required, on the condition that that person shall cause the pupil to attend school as required and, upon breach of that condition, the bond shall be forfeited to the Crown.

- 156 A pupil may be exempted from attendance at a school, and no parent, guardian or other person shall be liable to any penalty imposed by this Act, where:
  (a) the pupil is under a program of instruction approved by the director or superintendent at home or elsewhere;
  (a.1) the pupil is in attendance at a registered independent school;
  (b) the pupil is unable to attend school by reason of illness, certified by a physician if required by the board of education, or other unavoidable cause considered sufficient by the local attendance counsellor;
  (c) the distance to a school which the pupil is entitled to attend or to a school bus route is in excess of four kilometres, as measured by the nearest passable road from the place of residence of the pupil to the said school or school bus route, as the case may be;
  (d) the pupil has been suspended or expelled from school;
  (e) the pupil has been excluded from attendance at school under *The Public Health Act*;
  (f) the director or superintendent, upon due inquiry or investigation, is of the opinion, and certifies in writing to that effect, that continued attendance at

> school is not productive or is detrimental to the pupil or to the school;
> (g) the pupil is engaged in work-experience or other educational programs authorized or approved by the board of education.
> (h) the pupil is absent from school on a holy day of the church or religious denomination of which he or his parent or guardian is a member;
> (i) the pupil is absent from school with the approval of his parent or guardian for the purpose of receiving medical or dental treatment;
> (j) the pupil accompanies his parent or guardian on extended travel outside the division but, where such travel requires more than five school days, the parent or guardian shall inform the principal of the period of absence from school which is anticipated as a result of such travel and shall, where considered advisable by the principal, consult with him and such of his teaching staff as may be appropriate with respect to measures to be taken to maintain reasonable continuity in the progress of that pupil in his courses, and those measures shall be the responsibility of the parent or guardian during the period of the pupil's absence from school.

With the exception of pupils attending registered independent schools,[1] the responsibility for enforcing the compulsory attendance laws resides at the local, board of education level. In the case of home-based education, the director of education presently has the responsibility to approve the program of instruction which the parents are providing their children. Under the present legislation, without the director's approval, the children of compulsory school age are truant.

Legislation and Regulations with Respect to Home-Based Education in Other Provinces

At the request of the Committee, the secretariat to the Committee reviewed the legislation and regulations pertaining to home-based education in other Canadian provinces.[2] This review, the results of which are summarized here and in the next three chapters, surveys all Canadian provinces, except for just a minimal amount of information from Quebec.

Home-Based Education as an Exemption from Compulsory Attendance

Like Saskatchewan, all provinces to the east of Saskatchewan recognize the right of parents to educate their children at home, as an exemption from compulsory attendance at schools established as public authorities under provincial education legislation -- as the case may be, at public, separate, denominational, or dissentient schools.

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[1] Under *The Independent Schools Regulations*, clause 29(2)(d), the minister has the responsibility to "ensure that attendance provisions of the Act are met by pupils enrolled in registered independent schools." See also the *Independent Schools Policy Manual*, policy B.3.3 (January 1992).

[2] See Appendix 6.

In Nova Scotia, Quebec, and Manitoba, a child must be receiving a standard of instruction at home or elsewhere "equivalent" to that provided in public schools. In Newfoundland, Prince Edward Island, New Brunswick, and Ontario, a child must be under "efficient" or "satisfactory" instruction at home or elsewhere.

In Prince Edward Island, New Brunswick, and Manitoba, provincial department of education officials are responsible for certifying equivalent or efficient instruction, as the case may be. In Newfoundland, Nova Scotia, Quebec, and Ontario, local board of education officials are responsible for certifying "equivalent" or "efficient" instruction. Each province has developed various procedures, in line with the specified location of responsibility, for certifying equivalent or efficient instruction.

Home-Based Education as an Alternative to Public Education

In Alberta and British Columbia, provincial legislation treats home-based education as an alternative to public schools. rather than an exemption from attendance at public schools. The underlying principle is "compulsory education" rather than "compulsory attendance".

In Alberta, subsection 8(1) of *The School Act, 1988*, requires all children of compulsory school age to attend "school", which is defined in clause 1(1)(q) as:

> A structured learning environment through which an education program is offered to a student by
> (i) a board
> (ii) an operator of a private school;
> (iii) an early childhood services program private operator;
> (iv) a parent giving a home education program, or
> (v) the Minister.

Prior to commencing a home education program, parents who wish to provide a home education program for their children must "notify, in writing" either (1) the board of the district or division of which the parents are resident; or (2) a "willing non-resident board", i.e. a board which is not the family's resident board and which has expressed a willingness to supervise the home education program.

According to subsection 2(2) of *The Home Education Program Regulations*, the written notification shall include:

> (h) The proposed home education program including
> (i) the name of the person who is to provide instruction;
> (ii) the proposed school services and facilities, if any, that are to be used; and
> (iii) the program to be offered.

Once notified, the resident board is required to supervise the program, unless it determines that the home education program does not comply with *The Goals of Basic Education for Alberta*. A willing non-resident board, by definition, will already have willingly agreed to supervise the home education program.

In British Columbia, section 3 of *The School Act, 1989*, requires all children of compulsory school age to be enrolled in an educational program provided by a (public) board of trustees unless (1) the child is attending an independent school, a provincial (correspondence) school, a federal school, or a band school; or (2) the child is registered as a home-educated child pursuant to section 13 of the Act.

Section 12 of the Act requires parents who choose to educate their children at home to provide their children with an "educational program", which is defined as:

> An organized set of learning activities that, in the opinion of
> (a) the board, in the case of learning activities provided by the board,
> (b) the minister, in the case of learning activities in a Provincial school, or
> (c) the parent, in the case of learning activities provided to a child registered under section 13,
> is designed to enable learners to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy society and a prosperous and sustainable economy.

Subsection 13(1) further requires parents who choose to educate their children at home to register their children, by September 30 each year, with either:

(a) a school of the parent's choice that is operating in the school district in which the parent resides,
(b) a regional correspondence school providing services to the school district in which the parent resides or with the minister if no regional correspondence school provides services to that district, or
(c) an independent school operating in British Columbia.

Upon request of a parent, public schools are required to register home school learners, for which they subsequently receive financial compensation for each home school learner registered. Independent schools may register home school learners, but are not required to do so. Public schools may not, and independent schools may charge a registration fee.

Parents who are educating their children at home are not required to have their children's educational program approved or supervised by the public or independent school with whom their children are registered. "The school has no authority to approve or supervise the education program of a home school learner unless so requested by the parent."

Parents who are educating their children at home, but who fail to register their children as home school learners, or who register their children as home school learners but who fail to provide them with an educational program, commit an offence.

Name and Categories of Home-Based Education Programs

In Newfoundland, Alberta, and British Columbia, provincial legislation refers to home-based education programs as "home education" programs. In Prince Edward Island, New Brunswick, Ontario, and Manitoba, department officials refer to the practice as "home schooling"; and in Nova Scotia, as "home study".

Most provinces distinguish home-based education, at the initiative of parents, from school-based instruction in the home, at the initiative of public education authorities for health, disability, or locational reasons. In Newfoundland, provincial officials refer to the latter practice as a "home-tutoring program"; in Nova Scotia as a "home program"; in New Brunswick as "home-hospital tutoring"; and in Ontario "home instruction". While local boards of education do not generally receive grant recognition for home-based education *per se*, they do receive generally full grant recognition for school-based instruction in the home.

In Alberta, provincial legislation does not distinguish home-based education from school-based education, since boards of education receive full grant recognition for both.

In British Columbia, provincial officials distinguish "home education" from "correspondence school education". Both for compulsory attendance and funding purposes, they treat enrolment in one of the nine regional correspondence schools as similar to enrolment in a public school. Parents who are resident in British Columbia may enrol their children, free of charge, in a regional correspondence school. On the other hand, school districts must generally pay tuition fees, on a per-course basis, for their pupils who take courses from one of the correspondence schools.

Qualifications of Parents/Guardians

No province specifies in legislation, regulation, or policies any requirements with respect to the qualifications of parents or guardians in order to educate their children at home.

However, department of education officials in other provinces report that many parents who educate their children at home possess valid provincial teacher's certificates and have had experience as teachers.

Questions, Discussions, Recommendations, and Understandings

Question (A.1)

What should be the name of home-based education programs in legislation and regulation?

Discussion

The Committee noted that Newfoundland, Alberta, and British Columbia refer to "home education" programs; Prince Edward Island, New Brunswick, Ontario, and Manitoba refer to "home schooling"; and Nova Scotia refers to "home study".

Representatives of Saskatchewan home-based educators indicated, first, that they were educating their children, not schooling them, and second, that they were providing them with educational opportunities, in large measure at home, but not only at home, since some education takes places outside the home, for example, on visits to the public library or on field trips. The phrase "home-based" more accurately reflected the actual practice of education taking place not only at home, but at and from the home, with the home as the base.

Consistent with the practice in virtually all other provinces, the Committee also recognized the distinction between home-based education, at the initiative and under the direction of parents, from school-based instruction in the home, at the initiative and under the direction of public education authorities, for health, disability, or locational reasons. Distance education, therefore, generally represents school-based education.

Since the purpose of the Committee was to discuss and to make recommendations only with respect to education taking place at and from the home, at the initiative and under the direction of parents, the Committee agreed with the term "home-based education".

Recommendation

(A.1) *That home-based education programs be called "home-based education programs".*

Understandings

Directors of education may continue to initiate and to arrange for school-based instruction in the home for health, disability, or locational reasons. Such does not represent a home-based education program.

Question (A.2)

What different categories, if any, should there be of home-based education programs?

Discussion

This issue arose because Saskatchewan Education now recognizes four categories of independent schools -- registered schools, accredited schools, historical high schools, and special needs schools. Should there also be more than one category of home-based education programs?

Given that school-based instruction in the home is not a category of home-based education, and given that all home-based education programs will be required to be registered, the issue became whether some home-based education programs might further be entitled to be accredited, in addition to being registered.

While a registered independent school provides its pupils with a legitimate exemption from attendance at a public school, an accredited independent school has received an additional Departmental sanction of its educational program, conferring, among other things, the eligibility of its pupils for secondary level credits. In order to be accredited, the independent school must subscribe to the *Goals of Education for Saskatchewan*; must conform to provincial curriculum policy in respect of the required areas of study, the common essential learnings, locally-determined options, and the adaptive dimension; must employ only certified teachers; and must be under the supervision of the Department of Education, or a person approved by the Department.

The Committee concluded that it was impractical and inappropriate to consider accrediting home-based education programs. There exists a fundamental distinction between an independent school, which is an institution providing an education to other people's children, and a home-based education program which represents parents providing an education to their own children. While it is appropriate to make provision in law for the accreditation of an independent school, such does not follow for home-based education programs.

Recommendations

(A.2.1) *That there be only one category of home-based education programs called "registered home-based education programs".*

(A.2.2) *That the registration of a home-based education program does not, in and of itself:*

- *Confer eligibility of the children for secondary level credits or secondary level standing; or*
- *Establish the grade, level, or year in which the children are entitled to be enrolled in a public or independent school.*

Understandings

Unlike the supervision of teachers in registered independent schools, the supervision of a registered home-based education program cannot lead to teacher certification, the issuing of Departmental credits for approved secondary level courses being taught in the home, or teacher accreditation.

Students in registered home-based education programs may still receive secondary level credits for courses taken from the Saskatchewan Correspondence School and other accredited correspondence or extension schools.

Questions (A.3) and (A.4)

What should be the eligibility criteria for the registration of home-based education programs?

What regulations and policies, if any, should there be with respect to the qualifications of parents who are educating their children at home?

Discussion

Eligibility criteria refer to the generic structure and operation of a registered home-based education program. Since every child has a right to an education and since a registered home-based education program would now provide the children in the program with an exemption from attendance at a public school, each home-based education program should meet certain eligibility criteria in order to be registered.

While the registration of a home-based education program represents a notice of intent to operate, public authorities cannot be expected to register anything as a home-based education program. It remains necessary to distinguish home-based education programs from school-based and other types of educational programs.

The Committee's first conclusion was that the parents or legal guardians[3] should personally be directing the education program of their children, since a home-based education program exists at the initiative of the parents. This means that the parents must be responsible for and involved in the education of their children. This would not preclude the parents from hiring one or more tutors to assist with the academic instruction of their children; a group of home-based educators from organizing, from time to time, shared educational activities and field trips, etc.; the parents from enrolling their children in a correspondence or extension school; or the children from taking a course or program in a public or independent school.

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[3] Throughout the remainder of this report, "legal guardians" may be substituted for "parents", unless otherwise stated.

However, parents who establish a school in their home for their own children as well as for children from other families, or a group of parents who hire a teacher to teach their children in one of the families' homes would be required to register with Saskatchewan Education as an independent school, and to meet the requirements for a registered independent school.[4]

In law, since parents have the responsibility to provide for the education of their children and the right to do so in accordance with their conscientious beliefs, there exists a fundamental distinction between directing the education of one's own children (as in the case of a home-based education program), and establishing oneself as willing and competent to direct the education of other people's children (as in the case of an independent school). For this reason, and in line with the practice in all other Canadian provinces, the Committee concluded that it would be inappropriate to establish any minimum qualifications for parents who initiate home-based education programs other than the requirement that the parents must personally be directing the education program of their children.

Next, the Committee concluded that the parents must have a written educational plan that is, in the opinion of the registering authority, (1) not inconsistent with the *Goals of Education for Saskatchewan*, and (2) not inappropriate for the age and development of the children in the program.

The intent of this requirement is for the parents to demonstrate that they have a positive and constructive approach to the education of their children, before commencing the home-based education program. The Committee recognized that, today, parents are choosing to educate their children at and from their home, primarily for philosophical or religious reasons. However, while their program may be based upon either a philosophical or a religious perspective different from that of the public education system, it must still be an academically credible program, appropriate for the age and development of their children.

Registered home-based education programs should also have goals that are not inconsistent with the *Goals of Education for Saskatchewan*. While providing sufficient latitude to accommodate the educational aspirations of all parents for their children, this common set of goals is needed in order to provide a common sense of direction for our society. Children in home-based education programs should be able to enter or re-enter public or independent schools with a minimum of difficulty.

Representatives of home-based educators on the Committee expressed a concern that the phrase "in the opinion of" might convey the message that the registration of a home-based education program hinged on the subjective opinion of the registering authority. On the contrary, the public education representatives responded, if the phrase "in the opinion of" were to appear in legislation or regulation, this would represent the legal authority for the Minister of Education to establish policies for reviewing written educational plans which were consistent throughout the entire province, so that the right of parents to register a home-based education program would be governed by generally the same principles throughout the province.[5]

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[4] See *The Independent Schools Regulations*, section 3, and *The Independent Schools Policy Manual*, policies A.1.1, A.1.2, and A.1.3 (May 1991).

Recommendations

(A.3.1) *That in order to be registered, the home-based education program must meet the following eligibility criteria:*

- *The parents must personally be directing the education program of their children; and*
- *The parents must have a written educational plan that is, in the opinion of the registering authority:*
  - *Not inconsistent with the Goals of Education for Saskatchewan; and*
  - *Not inappropriate for the age and development of the children in the program.*

(A.3.2) *That the registration of a home-based education program is a notice of intent to operate a home-based education program.*

(A.3.3) *That parents who are providing their own children with a home-based education program that meets the eligibility criteria for a home-based education program have the right to register their program as a registered home-based education program.*

(A.4) *That there be no regulations or policies with respect to the qualifications of parents apart from the requirement that parents must personally be directing the home-based education program of their children.*

Understandings

Table 4.1 represents a suggested policy statement with respect to the eligibility criteria for a registered home-based education program, and Table 5.2 represents a suggested policy statement with respect to written educational plans. The required elements of each educational plan are discussed in Chapter V under question (B.1).

While the parents will be directing the home-based education program, the registering authority will be monitoring the program. Monitoring is discussed in Chapter VI under question (C.2). Table 6.1 represents a suggested policy statement with respect to monitoring home-based education programs.

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[5] In this context, see the discussion of *The Queen* v. *Cline* on page 39 above.

Questions (A.5) and (A.6)

What should be the process for registering home-based education programs?

Who should be liable for educational decisions in home-based education programs?

Discussion

The Committee began its discussion of these two questions by reviewing the constitutional and legal framework for home-based education, the policy framework as established by the Deputy Minister of Education, and the accountability processes which exist in other Canadian provinces.

In the ensuing discussion, it was taken for granted that home-based educators could register, as at present, with public boards of education.

However, in the light of principle #8 of the policy framework, which stated that home-based educators must register "either directly or indirectly, with some public authority", and in the light of the accountability processes that exist in other provinces, particularly in Alberta and British Columbia, the representatives of home-based education on the Committee raised a number of possibilities:

- Could home-based educators register with a registered or an accredited independent school, as is the case in British Columbia?
- Could home-based educators register with a "willing non-resident" board, as is the case in Alberta?
- Could home-based educators register directly with the Department of Education, as is the case in Prince Edward Island, New Brunswick, and Manitoba?
- Could independent extension schools, like Image Extension School, register directly with the Department of Education, as is the case in a number of American states where similar schools are permitted to register -- and in some cases, even become accredited?[6]
- If so, could home-based educators meet the compulsory attendance requirements by enrolling in a registered independent extension school?

The public education representatives dismissed the possibility of registration with a registered or an accredited independent school, as in British Columbia, on the grounds that an exemption from compulsory attendance (i.e., an independent school) should not be permitted to grant a further exemption (i.e., a home-based education program). This would represent conferring on independent schools some of the attributes of public authorities.

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[6] For example, the Calvert School in Baltimore is accredited with the Maryland State Department of Education.

In addition, both the Alberta and British Columbia *School Acts* were philosophically different from Saskatchewan's *Education Act* with respect to the recognition of home-based education. Whereas Alberta and British Columbia view home-based education as an alternative to public education, Saskatchewan views home-based education as an exemption from compulsory attendance at a public school. In the light of principle #7 of the policy framework, amendments to Saskatchewan's *Education Act* along the lines of Alberta and British Columbia, while interesting questions, were outside the mandate of the Advisory Committee.

With respect to registration with "willing non-resident" boards, as in Alberta, the Committee recognized this as a recent innovation on which the jury was still out. Although this possibility became legal in 1989, the school year 1991-92 was the first year in which any boards of education in Alberta had actually registered non-resident students. The public education representatives on the Committee said that a willing board might be willing, but less caring. It might be a "board of convenience" which was collecting provincial grants, but not actually supervising non-resident home-based educators. It might be creating conflicts between boards of education and home-based educators, rather than resolving them. Until there was concrete evidence one way or the other, the Advisory Committee as a whole did not endorse the willing board concept.

With respect to the registration of independent extension schools with Saskatchewan Education, the registration of independent schools *per se*, pursuant to the new *Independent Schools Regulations* was a relatively new phenomenon. Until the new legal framework for independent schools *per se* had proven itself, public educators could not consider the registration of independent extension schools at the present time.

However, this position did not preclude either registered independent schools or independent extension schools from providing curricular, instructional, or other support to home-based educators.[7] The public education representatives on the Committee recognized that these provided a potentially valuable resource to some home-based educators in the province, which Saskatchewan Education and boards of education could not and should not attempt to duplicate.

With respect to direct registration with the Department of Education, the Advisory Committee referred this matter back to the Deputy Minister of Education. She replied on April 10, 1992:

> I remain convinced that, for the long term, home-based educators and their children will be better served by registration with boards of education. However, I am willing to consider the direct registration of home-based educators with the Department, as a transitional arrangement, in the context of the long-term expectation that all home-based educators will register locally and in the context of encouraging, rather than compelling harmonious and co-operative relationships to develop.

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[7] This issue is discussed further in Chapter V under question (B.3).

The Deputy Minister also confirmed the public education position with respect to the registration of home-based educators with registered or accredited independent schools.

Therefore, unless exempted from attendance pursuant to clauses 156(b) to (j) of *The Education Act*, all Saskatchewan children of compulsory school age who are not attending a public school must be attending either a registered independent school or a registered home-based education program.

All parents who are currently providing or intending to provide their own children of compulsory school age with a home-based education program must register with some public authority -- in accordance with the Deputy Minister's letter -- either with a public board of education, or, for a transitional period of time, directly with Saskatchewan Education.

In either case, in order to standardize the registration process throughout the province, parents should register on a form prescribed by Saskatchewan Education. The registration form should contain basic identifying information for each child who is on the program; the effective date of commencement of the home-based education program; if, applicable, the name of the last public or independent school in which each child was enrolled; the written educational plan for the home-based education program; and the parents' expectations with respect to services desired from the registering authority.

Since the parents will be directing the home-based education program, they should explicitly accept responsibility for the education of their children in the home-based education program. Furthermore, no board of education, or any official whose duties require him or her to register, monitor, or provide services to home-based education programs should be liable for anything in good faith done, or omitted to be done, pursuant to or in the exercise or supposed exercise of these duties.[8]

Recommendations

(A.5.1) *That all Saskatchewan children of compulsory school age who are not attending a public school must be attending either:*

- *A registered independent school; or*
- *A registered home-based education program;*

Unless exempted from attendance pursuant to clauses 156(b) to (j) of The Education Act.

(A.5.2) *That all parents who are currently providing or intending to provide their own children of compulsory school age with a home-based education program must register, either with a public board of education, or, for a transitional period of time, directly with Saskatchewan Education.*

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[8] This recommendation is similar in principle and wording to section 116 of *The Education Act*.

(A.5.3) *That parents register with a registering authority on a form prescribed by Saskatchewan Education.*

(A.5.4) *That once a registering authority has registered a home-based education program, the registration be valid until the end of the current school year (June 30) and renewable annually.*

(A.6.1) *That when registering their home-based education program, parents explicitly accept the responsibility for the education of their children in the home-based education program.*

(A.6.2) *That no board of education, or any official whose duties require him or her to register, monitor, or provide services to home-based education programs be liable for anything in good faith done, or omitted to be done, pursuant to or in the exercise or supposed exercise of these duties.*

Understandings

Table 4.2 represents a suggested policy statement with respect to the process for registering home-based education programs.

Since registering authorities require some time to review registration forms and written educational plans, parents should submit these:

- At the time that the oldest child on the program turns seven years of age (i.e. when he or she becomes of compulsory school age);
- At least 30 days prior to the commencement of a new program in September of a given year, and in any event by August 15 of that year;
- Within 30 days of establishing residence in a school division: or
- Before withdrawing a child of compulsory school age from the public education system.

Both boards of education and home-based educators have the interest in establishing harmonious and co-operative relationships in order to avoid the rigid application of deadlines such as the 30-day requirement.

Once a registering authority has registered a home-based education program, the registration will be valid until the end of the current school year (June 30) and renewable annually. In order to facilitate renewals prior to the annual student count for funding purposes on September 30 of each year, parents should submit renewals by August 15 of each year.

Parents will register only one home-based education program per family, which will include all the children of compulsory school age who are on the program.

Parents may register all of their children who are on the home-based education program, even if some of them are below (seven) or above (sixteen) compulsory school age. If the parents desire to receive some board of education services for these children, then they must register them on the program.

Board of education services for home-based education programs are discussed further in Chapter VI under question (C.3).

If the parents voluntarily decide to terminate their home-based education program and to enter or re-enter their children into the public education system during a given school year, they should give the registering authority as much notice as possible of their decision to do so, in order to give board of education officials and the parents the opportunity to discuss the continuing education of their children. Under these circumstances, the parents will not generally be eligible to re-register the program until the following school year.

The suspension or cancellation of a registered home-based education program at the initiative of a registering authority is discussed in Chapter VII under question (D.1).

Question (A.7)

What requirements, if any, should be placed on registering authorities with respect to the registration of home-based education programs?

Discussion

While all parents who are educating their own children of compulsory school age in a home-based education program will be required to register either with a board of education or, for a transitional period of time, directly with Saskatchewan Education, public authorities must respond to this notice of intent in accordance with the principles of freedom of conscience and religion in education and fundamental justice.[9]

Freedom of conscience and religion is a substantive right found in section 2(a) of *The Charter of Rights and Freedoms*, while fundamental justice is a procedural right found in section 7. That the two are complementary is a fundamental principle of our constitutional heritage that goes back to *Magna Carta* in 1215 and the British *Bill of Rights* in 1689. Both are "subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society."

Each board of education should designate an official who is responsible for processing the registration of home-based education programs in the school division. Before registering the program, this official should meet with the parents, by mutual consent, not necessarily in the family's home in order to discuss the various aspects of the proposed home-based education program.

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[9] In *Jones* v. *The Queen*, *supra*, pp. 593 and 597, the Supreme Court of Canada held that the registering authority must "respect, as much as possible, the religious convictions of the appellant as guaranteed by the Charter", and must not "impose arbitrary standards" or act "in a way that [is] fundamentally unfair, such as failing to examine the facts or to fairly consider the appellant's representations." See also, guiding principle #4, pages 37-40 above.

If the designated official is satisfied that the registration form is complete and that the home-based education program meets the eligibility criteria, then he or she should forward the registration to the director of education (if the director is not the designated official) for final signature.

Once a registering authority has registered a home-based education program, then, consistent with the duties of directors as outlined in section 108 of *The Education Act*, the registering authority should be responsible for (1) providing information, at the request of parents, on provincial and local policies with respect to home-based education; (2) preparing and transmitting reports and returns to Saskatchewan Education with respect to home-based education programs; (3) establishing and maintaining a permanent record on each pupil; and (4) monitoring the home-based education program.

Recommendations

(A.7.1) *That each registering authority must consider each registration in accordance with the principles of:*

- *Freedom of conscience and religion in education; and*
- *Fundamental justice.*

(A.7.2) *That a registering authority not register a home-based education program until a designated official employed by the registering authority has met at least once with the parent(s), by mutual consent, not necessarily in the family's home, in order to discuss the various aspects of the proposed home-based education program.*

(A.7.3) *That once a registering authority has registered a home-based education program, the authority become responsible for:*

- *Providing information, at the request of parents, on provincial and local policies with respect to home-based education;*
- *Preparing and transmitting reports and returns to Saskatchewan Education with respect to home-based education programs;*
- *Establishing and maintaining a permanent record on each pupil; and*
- *Monitoring the home-based education program.*

Understandings

Guidelines for reviewing written educational plans are discussed in Chapter V under question (B.1). To assist boards of education with reviewing written educational plans, Saskatchewan Education should develop and maintain a materials list for home-based education programs, which is discussed in Chapter V under question (B.2).

Boards of education should be eligible to receive the basic per pupil recognition for each pupil in their school division who is registered with the board in a home-based education program. As discussed further in Chapter VI under question (C.1), this would include recognition for Saskatchewan Correspondence School courses, special needs program funding, and designated pupil funding for children in registered home-based education programs.

Home-based educators in each school division are encouraged to make themselves known to board of education officials in their school division. Boards of education are encouraged to designate an official responsible for processing the registration of home-based education programs in collaboration with the home-based educators in the school division.

In the case of divorce or separation, the custodial parent has the right to choose the kind of education given to his or her children. In such cases, the designated official should confirm any relevant orders or provisions pursuant to a divorce or separation agreement.

The nature and form of pupil records is discussed further in Chapter V under question (B.5).

Boards of education and parents will attempt to resolve any disputes with respect to registration in a collaborative way. Failing this, mechanisms for reviewing disagreements at the local level are discussed in Chapter VII under question (D.2).

Table 4.1 (Suggested Policy Statement)

Registered Home-Based Education Programs: Basic Eligibility Criteria

Rationale

- Every child has a right to an education. Education is the very foundation of good citizenship and should develop the potential of all children in a changing world. Education should affirm the worth of each individual and lay a foundation for learning throughout life.

- Parents have the responsibility to provide for the education of their children and the right to direct their children's education at and from their home in accordance with their conscientious beliefs, subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.

- The Government of Saskatchewan has a compelling interest in the education of all Saskatchewan children and exercises the legislative authority to exempt children of compulsory school age from attendance at a public school.

- A registered home-based education program provides the children in the program with a exemption from attendance at a public school. Therefore, each registered home-based education program should meet certain eligibility criteria.

Policy

- In order to be registered, the home-based education program must meet the following eligibility criteria:
  - ▸ The parents must personally be directing the education program of their children; and
  - ▸ The parents must have a written educational plan that is, in the opinion of the registering authority:
    - ▪ Not inconsistent with the *Goals of Education for Saskatchewan*; and
    - ▪ Not inappropriate for the age and development of the children in the program.

- The registration of a home-based education program is a notice of intent to operate the home-based education program.

- Parents who are providing their own children with a home-based education program that meets the eligibility criteria for a home-based education program have the right to register their program as a registered home-based education program.

- The registration of a home-based education program does not, in and of itself:
  - Confer eligibility of the children for secondary level credits or secondary level standing; or
  - Establish the grade, level, or year in which the children are entitled to be enrolled in a public or independent school.

Guidelines

- The eligibility criteria relate to the generic structure and operation of a registered home-based education program. They are also intended to distinguish home-based education from school-based education.

- All Saskatchewan children of compulsory school age who are not attending a public school must be attending either:
  - A registered independent school; or
  - A registered home-based education program;

  Unless exempted from attendance pursuant clauses 156(b) to (j) of *The Education Act*.

- School-based instruction in the home, under the direction of a public or independent school -- for health, disability, or locational reasons -- does not represent a home-based education program. Generally speaking, distance education programs represent school-based education.

- For parents to be directing a home-based education program, they must be responsible for and involved in the education of their children.

- While the parents will be **directing** the home-based education program, the registering authority will also be **monitoring** the program.

- The phrase "in the opinion of" represents the legal authority for the Minister of Education to establish policies for reviewing written educational plans which are consistent throughout the entire province, so that the right of parents to register a home-based education program will be governed by generally the same principles throughout the province.

- Parents are only permitted to register their own children in the home-based education program. This does not preclude:
  - The parents from hiring one or more tutors to assist with the academic instruction of their children;
  - A group of home-based educators from organizing, from time to time, shared educational activities and field trips, etc.;
  - The parents from enrolling their children in a correspondence or extension school; or
  - The children from taking a course or program in a public or independent school.

- Parents who establish a school in their home for their own children as well as for children from other families, or a group of parents who hires a teacher to teach their children in one of the families' homes is required to register with Saskatchewan Education as a registered independent school and to meet the requirements for a registered independent school.

Table 4.1 Recommended Policy Statement

Registered Home-Based Education Programs: Registration Process

Rationale

- Registered home-based education programs are directed by parents who are not public authorities. Such persons must register their intent to provide their children with a home-based education program so that the registering authority can protect the societal interest in the education of all Saskatchewan children in accordance with the legal framework represented by the home-based education regulations and policies.[1]

- As public authorities, the registering authorities should recognize both freedom of conscience and religion in education and the principles of fundamental justice, in accordance with sections 2(a) and 7 of *The Charter of Rights and Freedoms, 1982*.[2]

Policy

- All Saskatchewan children of compulsory school age who are not attending a public school must be attending either:
  - A registered independent school; or
  - A registered home-based education program;

  Unless exempted from attendance pursuant clauses 156(b) to (j) of *The Education Act*.

- All parents who are currently providing or intending to provide their own children of compulsory school age with a home-based education program must register, either with a public board of education, or, for a transitional period of time, directly with Saskatchewan Education.

- Parents shall register with a registering authority on a form prescribed by Saskatchewan Education.

- When registering their home-based education program, parents shall explicitly accept the responsibility for the education of their children in the home-based education program.

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[1] In *Jones* v. *The Queen* (1987) 31 Dominion Law Reports (4th), at p. 593, the Supreme Court of Canada held that the law can require home-based education programs to be registered with a provincial department of education or a local board of education.

[2] In *Jones* v. *The Queen*, *supra*, pp. 593 and 597, the Supreme Court of Canada held that the registering authority must "respect, as much as possible, the religious convictions of the appellant as guaranteed by the Charter", and must not "impose arbitrary standards" or act "in a way that [is] fundamentally unfair, such as failing to examine the facts or to fairly consider the appellant's representations."

- No board of education, or any official whose duties require him or her to register, monitor, or provide services to home-based education programs shall be liable for anything in good faith done, or omitted to be done, pursuant to or in the exercise or supposed exercise of these duties.

- A registering authority shall consider each registration in accordance with the principles of:
  - Freedom of conscience and religion in education; and
  - Fundamental justice.

- A registering authority shall not register a home-based education program until a designated official employed by the registering authority has met at least once with the parent(s), by mutual consent, not necessarily in the family's home, in order to discuss the various aspects of the proposed home-based education program.

- Once a registering authority has registered a home-based education program, the authority becomes responsible for:
  - Providing information, at the request of parents, on provincial and local policies with respect to home-based education;
  - Preparing and transmitting reports and returns to Saskatchewan Education with respect to home-based education programs;
  - Establishing and maintaining a permanent record on each pupil; and
  - Monitoring the home-based education program.

- Once a registering authority has registered a home-based education program, the registration shall be valid until the end of the current school year (June 30) and renewable annually.

Guidelines

- Each registration form shall contain:
  - The name of each parent who is responsible for and who is directing the home-based education program;
  - The address and telephone number of the family;
  - The name, gender, and date of birth of each child of compulsory school age in the home-based education program;
  - The effective date of commencement of the home-based education program;
  - If applicable, the name of the last public or independent school in which each child was enrolled, and the last grade completed at this public or independent school;
  - The written educational plan for the home-based education program;
  - The expectations of the parents with respect to services from the registering authority; and
  - An acceptance of responsibility by the parents for the education of their children.

- Since registering authorities require some time to review registration forms and written educational plans, parents should submit these:

    - At the time that the oldest child on the program turns seven years of age (i.e. when he or she becomes of compulsory school age);
    - At least 30 days prior to the commencement of a new program in September of a given year, and in any event by August 15 of that year;
    - Within 30 days of establishing residence in a school division; or
    - Before withdrawing a child of compulsory school age from the public education system.

- Both boards of education and home-based educators have the interest in establishing harmonious and co-operative relationships in order to avoid the rigid application of deadlines such as the 30-day requirement.

- Once a registering authority has registered a home-based education program, the registration will be valid until the end of the current school year (June 30) and renewable annually. In order to facilitate renewals prior to the annual student count for funding purposes on September 30 of each year, parents should submit renewals by August 15 of each year.

- Parents will register only one home-based education program per family, which will include all the children of compulsory school age who are on the program.

- Parents may register all of their children who are on the home-based education program, even if some of them are below (seven) or above (sixteen) compulsory school age. If the parents desire to receive some board of education services for these children, then they must register them on the program.

- If the parents voluntarily decide to terminate their home-based education program and to enter or re-enter their children into the public education system during a given school year, they should give the registering authority as much notice as possible of their decision to do so, in order to give board of education officials and the parents the opportunity to discuss the continuing education of their children. Under these circumstances, the parents will not generally be eligible to re-register the program until the following school year.

- Home-based educators in each school division are encouraged to make themselves known to board of education officials in their school division. Boards of education are encouraged to designate an official responsible for processing the registration of home-based education programs in collaboration with the home-based educators in the school division.

- In the case of divorce or separation, the custodial parent has the right to choose the kind of education given to his or her children. In such cases, the designated official should confirm any relevant orders or provisions pursuant to a divorce or separation agreement.

- Parents who have submitted a registration form to a board of education or to Saskatchewan Education shall not be liable to prosecution under subsection 155(2) of *The Education Act* during the period of time that the board of education or Saskatchewan Education is processing the registration.

Procedures

1. Each registering authority shall designate an official who is responsible for processing the registration of home-based education programs in the school division.

2. When a registering authority receives a registration form from a parent, the designated official shall check whether the form is complete and whether the home-based education program meets the eligibility criteria for registration of a home-based education program, in accordance with the above policies and guidelines.

3. Without restricting the generality of #2 above, the designated official shall check that the written educational plan is:
   - Not inconsistent with the *Goals of Education for Saskatchewan*; and
   - Not inappropriate for the age and development of the children in the program;

   In accordance with Table 5.2, "Written Educational Plans".

4. The designated official and the parents who are directing the home-based education program shall meet by mutual agreement, not necessarily in the family's home, in order to discuss the various aspects of the proposed home-based education program. At this first meeting, the two parties shall come to an understanding with respect to the services that the board of education will provide to the home-based education program.

5. If the designated official is satisfied that the registration form is complete and that the home-based education program meets the eligibility criteria, then he or she shall forward the registration to the director of education (if the director is not the designated official) for final signature. The director of education shall notify the parents in writing of the registration of their home-based education program.

6. If the designated official is not satisfied that the registration form is complete or that the home-based education program meets the eligibility criteria, then he or she shall:
   - Notify the parents of this fact; and
   - Provide written reasons as to why:
     - The registration form is not complete; or
     - The home-based education program does not meet the eligibility criteria.

7. If the parents are not satisfied with the written reasons why the registering authority has denied the registration of the home-based education program, then the parents may refer their case to the established mechanism for reviewing disagreements at the local level. [See Table 7.3: "Settlement of Disputes".] The onus is on the registering authority to demonstrate why it should not register the home-based education program.

8. Each school year, when the parents renew their registration, they shall update the information provided on the original registration form, and in particular, provide any changes with respect to:
   - The philosophy of the home-based education program;
   - The learning objectives for each child; and
   - The list of instructional and support materials for each child.

Chapter V

Curriculum, Instruction, and Evaluation

Legislation and Regulations with Respect to Public Schools in Saskatchewan

In Saskatchewan, the Minister of Education has the duty to prescribe the goals of education and the courses of instruction for public schools and to provide curriculum guides and lists of textbooks, apparatus, equipment and other materials corresponding to the prescribed courses. He or she may authorize textbooks for the use of pupils and teachers in all schools; prescribe the subjects of instruction; and define compulsory and optional subjects and course requirements for completion of a grade or year of study.

Public boards of education have the duty to authorize and approve the courses of instruction for their schools which are consistent with the regulations and with such directives as the minister may issue. They may approve textbooks, reference books and library materials for use in their schools, and they may, with the approval of the minister, authorize the implementation of a for-credit course of study which has been developed within the division for use in any of its schools.

Public boards of education shall appoint a director of education, designated as their chief executive officer, who, among other things, shall exercise general supervision of the schools and the work of principals, teachers, and other personnel employed by the board.

The relevant sections of *The Education Act* are as follows:

- 9 The minister shall:
  (c) provide courses of study or curriculum guides pertaining to courses of instruction authorized under the regulations with respect to kindergarten, elementary, and secondary schools;
  (d) make provision for the preparation and publication, as he considers fit, of information with respect to goals, objectives and educational planning insofar as they pertain to the present and future growth and development of the educational system of the province;
  (e) provide lists of textbooks, apparatus, equipment and of other materials that he may prescribe, approve or recommend for use in the schools;

- 10(1) The minister may:
  (i) authorize textbooks for the use of pupils and teachers in all schools;
  (i.1) recommend reference books as well as those maps, globes, charts, apparatus and equipment that he may consider necessary to ensure an optimum quality of instructional services in all schools;

(j) prescribe the subjects of instruction and issue courses of study for each year or grade from kindergarten to Grade 12, or such combination of those grades as may be classified as Elementary, Middle and Secondary Levels, for all schools, and may define compulsory and optional subjects and course requirements for completion of a grade or year of study;
(k) authorize a course of study developed by a school and approved by the board of education to be taught as an alternative, or in addition, to a course or courses prescribed by the department.

- 91 A board of education shall:
  (j) subject to the regulations, authorize and approve the courses of instruction which shall constitute the instructional program of each school in the division;

- 92 A board of education may:
  (e) subject to the regulations, approve textbooks, reference books and library materials for use in the schools of the division;

- 106(1) A board of education shall appoint a director of education;

- 107 The director of education shall be designated the chief executive officer of the board of education.

- 108 The board of education shall prescribe the powers and duties of the director and, in addition, the director shall:
  (a) prepare and transmit to the department such reports and returns as may from time to time be required by the minister;
  (b) insure that the schools are conducted in accordance with this Act, the regulations and the policies of the board in all matters within its jurisdiction;
  (c) exercise general supervision of the schools and the work of principals, teachers, and other personnel employed by the board;
  (d) provide educational leadership and liaison involving the board, the professional staff and the public pertaining to the efficiency and advancement of education in the division.

- 175 Subject to the stated policies of the board of education and to the regulations, a principal, under the supervision of the director or superintendent, shall be responsible for the general organization, administration and supervision of the school, its program and professional staff and for administrative functions which pertain to liaison between the school and the board and its officials and, without restricting the generality of the foregoing, the principal shall:
  (d) exercise supervision over the work of all members of his staff;
  (e) provide leadership for enhancement of the professional development of his staff;
  (g) conduct, in co-operation with his staff, a continuing program of planning and evaluation with respect to the objectives, curriculum, pedagogy and effectiveness of the instructional program of the school;
  (j) establish in consultation with his staff, the procedures and standards to be applied in evaluation of the progress of pupils and in making promotions.

- **176(1) Subject to subsection (2), the basic program of studies and the courses of study used in a school shall be consistent with the regulations and with such directives as the minister may issue.**

  (2) A board of education may, with the approval of the minister, authorize the implementation of a course of study which has been developed within the division for use in any of the schools, and such course may be recognized for credit purposes in accordance with the regulations.

- **177 Subject to the regulations, the program of studies provided in a school shall be that approved by the board of education in conjunction with the principal on the recommendations of the director or superintendent.**

- 227 A teacher shall be responsible, in co-operation with staff colleagues and administrative authorities, for the advancement of the educational standards and efficiency of the school, participation in educational planning by the staff and the board of education, and the regular advancement of personal professional competence and, without restricting the generality of the foregoing, the teacher shall:
  - (b) plan and organize the learning activities of the class with due regard for individual differences and needs of the pupils.

Saskatchewan Education is presently in the middle of a major curriculum reform, which started with the establishment of the Curriculum and Instruction Review Committee in 1981; followed by the *Directions* Report in 1984, which recommended, among other things, a new statement of the goals of education for Saskatchewan and the development of a core curriculum spanning kindergarten to Grade 12; the establishment of the Core Curriculum Policy Advisory Committee in 1985; and the publication of *Core Curriculum Plans for Implementation* in 1987, which contained the policy directions for Core Curriculum.

Categorized under nine headings, the official *Goals of Education for Saskatchewan*[1] embody a student-centred approach to learning which recognizes the inherent worth and potential of each individual student; address all aspects of child development -- spiritual, ethical, intellectual, emotional, and physical; and address the knowledge, skills, and attitudes necessary for life-long learning and for living in society.

Core Curriculum is the umbrella term for provincial curriculum policy in Saskatchewan, containing four major components -- required areas of study, common essential learnings, locally-determined options, and adaptive dimension -- and specifying time and credit allocations for each of the three levels of schooling -- elementary, middle, and secondary. The essential concept behind Core Curriculum is that curriculum for each grade, level, program, and course of study should be planned with the entire educational experience in mind.

- The seven *required areas of study* are language arts, mathematics, science, social studies, health education, arts education, and physical education.

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[1] See Table 5.1.

- The *common essential learnings* are communication, numeracy, critical and creative thinking, technological literacy, independent learning, and personal and social values and skills. These are to be incorporated into the required areas of study and other programs and courses of study to the extent that they can authentically be incorporated into areas, programs, and courses of study.[2]

- *Locally-determined options* allow time for local or community program priorities, as determined by local boards of education, and which can be provided by utilizing provincially developed programs and courses or by implementing programs and courses developed at the local level.

- The *adaptive dimension* provides flexibility within the school program to enable schools and teachers to individualize instruction in order to meet the variety of students' needs. Saskatchewan Education expects teachers to exercise their professional expertise and judgment to make curricular and instructional adjustments in order to provide each child with an appropriate education.[3]

In developing new courses and programs within the framework of Core Curriculum, the Department has established a number of guiding principles:[4]

- Society has entrusted the school with the responsibility for advancing, within the context of the whole child, the intellectual development of children. No other institution is given this mandate as its major purpose.

- The primary purpose of schooling is to develop the broad range of knowledge, skills, attitudes, and values that our multi-cultural society holds important to sustain its cultural and epistemological traditions and to ensure their continued development.

- For the purpose of curriculum development, the systematization of knowledge and processes should occur through the disciplines of language, mathematics, natural and social sciences, history and the arts. In addition, curriculum documents should be designed to facilitate integration among subject areas where appropriate.

- Curriculum must sustain both the core bodies of knowledge upon which the disciplines are founded, the processes by which knowledge is obtained, and the principles by which the disciplines generate new knowledge.

- Curriculum must focus on developing student abilities in observing, defining, analyzing, researching, synthesizing, and evaluating.

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[2] See Saskatchewan Education, *Understanding the Common Essential Learnings: A Handbook for Teachers* (August 1988) for an overview of the common essential learnings as these relate to teaching practice.

[3] See Saskatchewan Education, *The Adaptive Dimension in Core Curriculum* (1992).

[4] The following are direct quotations from Saskatchewan Education, *Core Curriculum Guides: Standardization of Contents and Format* (September 1991), pp. 1-2.

- **Curriculum must be flexible and adaptive to meet the unique needs of a multicultural student population.**

Saskatchewan Education is committed to a philosophy of resource-based learning that encourages all schools (public and independent) to provide students with access to a broad range of curriculum resource materials. While schools may and will continue to use textbooks as primary resource materials for specific programs and courses, a single textbook seldom addresses all of the foundational objectives of a particular program or course, nor can it meet the needs of all learners.

The Department assists public schools in identifying suitable curriculum resource materials by evaluating resources, by **approving** textbooks, and by **recommending** learning resource materials and teacher references for use with provincially developed programs and courses. Both approved and recommended materials for public schools are listed in the publication, *Key Curriculum Resource Materials*, and the semi-annual updates to this publication.

Since the Department encourages varied instructional methods and resource materials in order to accommodate the needs and abilities of all students, resource materials can reflect the range of accepted scholarly thought about the means by which learning occurs rather than being based upon a single theoretical framework. Therefore, the Departmental assessment of resource materials takes into account such varied instructional methods and resource materials, as accepted by the educational profession and based upon scholarly educational research.

Finally, provincial curriculum policy provides for *alternative education programs*, which, in the Saskatchewan context, refers to a locally developed program designed to meet the unique and specific needs of an individual or group of individuals who are unable to complete the required areas of study in Core Curriculum and who require curricula that are qualitatively different from regular education. The goals, objectives, content, setting, delivery services, materials, equipment, and staffing are provided in a manner which will maximize learning opportunities for students who are at risk of not being able to achieve their potential via the options and/or modifications offered within regular education programs.[5]

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[5] See Saskatchewan Education, *Policy and Procedures for Locally Developed and Modified Courses of Study, and Alternative Education Programs* (February 1992).

Legislation and Regulations with Respect to Home-Based Education in Other Provinces

As previously discussed, the secretariat to the Committee reviewed the legislation and regulations pertaining to home-based education in other Canadian provinces.

Curriculum and Instruction

In Nova Scotia and Manitoba, children in home-based education programs must be receiving a standard of instruction "equivalent" to that provided in public schools. In Nova Scotia, this means that the parents are required to present an educational plan to the local district school board equivalent to what would be taught in the public schools, before the district superintendent will grant permission for home study. In Manitoba, this means that parents are expected to meet Manitoba's goals of learning and curriculum guidelines as outlined in the Department's Administrative Handbook.

In Newfoundland, Prince Edward Island, New Brunswick, and Ontario, children in home-based education programs must be under "efficient" or "satisfactory" instruction at home or elsewhere. In Newfoundland, this means that parents must meet curriculum requirements as established by local boards of education. In Prince Edward Island, this means that parents must present a "reasonable program" to department of education officials which outlines the subjects and the topics in each subject that they propose to teach in the coming year.

In Ontario, in the wake of *Lambton County Board of Education* v. *Beauchamp,*[6] the Ministry of Education issued a memorandum to boards of education in 1981, which represented guidelines for the use of directors of education and attendance counsellors in determining whether children were receiving "satisfactory instruction at home or elsewhere".

With respect to curriculum and instruction, the Ministry's memorandum recommended that supervisory officials utilize the following criteria:

- Availability of a written plan for instructing the pupil "at home or elsewhere" showing how the program is to be organized, scheduled and evaluated;
- Availability in the "home or elsewhere" of texts and other learning materials appropriate to the developmental growth of the child; and
- Availability of samples of the pupil's work, of a quantity and quality to indicate a regular and suitable program of instruction.

In Alberta, subsection 3(1) of *The Home Education Program Regulations* requires that:

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[6] (1979) 10 Reports of Family Law (2d) 354 (Ontario Prov. Ct.). See also Chapter III, guiding principle #5, pp. 40-41 above.

> **A home education program offered by the parent must**
> **(a) be prescribed or approved by the Minister under section 25(1)(a) or (d) of the Act, or**
> **(b) comply with any orders made under section 25(1)(f) of the Act.**

In effect, this regulation means that parents must offer either the prescribed program of studies for public schools, a program of studies that has been approved for use in an accredited private school, or a program of studies that complies with *The Goals of Basic Education for Alberta*.

In order to assist boards of education in determining whether various home education programs complied with *The Goals of Basic Education of Alberta* and in order to develop a process by which other programs could be reviewed in the future, the provincial Department of Education commissioned a review of five home education programs and support materials in 1989 -- Advanced Training Institute of America, Hewitt-Moore, Oak Meadow, Our Lady of Victoria, and Seton. This project failed to develop a workable model or process for reviewing home education programs. Rather, it demonstrated the pitfalls of attempting a detailed match between home education programs and *The Goals of Basic Education of Alberta*.

Consequently, the review recommended that, where parents wish to use programs other than those prescribed by Alberta Education and where parents were not concerned about their children receiving grade standing or high school credits, boards of education should "put emphasis on results rather than inputs". Boards of education should give conditional approval of any acceptable program plan and subsequently assess the student's academic achievement following the implementation of the program. While the Department has accepted this recommendation, it is not clear what the majority of boards of education, who retain the discretion to accept or reject the recommendation, have done.

In British Columbia, section 12 of *The School Act* requires parents to provide their children with an "educational program", which is defined as:

> An organized set of learning activities that, in the opinion of
> (a) the board, in the case of learning activities provided by the board,
> (b) the minister, in the case of learning activities in a Provincial school, or
> (c) the parent, in the case of learning activities provided to a child registered under section 13,
> is designed to enable learners to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy society and a prosperous and sustainable economy.

Evaluation

In varying degrees, regulations and policies in other provinces address three issues with respect to evaluation: (1) satisfactory progress for continuation of the home-based education program; (2) entry or re-entry into the public education system; and (3) issuing secondary level credits.

In Nova Scotia, each year, a teacher from the local school board evaluates the educational progress of the children, and determines whether the children are making progress equivalent to what could be expected in public schools. Permission to continue the home-based education program depends upon satisfactory results on this evaluation.

In Prince Edward Island, a certified teacher, who is not the child's parent or guardian, monitors each home-based education program. Parents submit progress reports at least once a year. Unless the teacher-monitor signs the report, indicating that satisfactory progress is being made, the Department will not grant permission for the parents to continue the home-based education program. The Department of Education also reserves the right to administer to the children on the program any provincial tests which are administered in the public education system.

In Ontario, the memorandum issued by the Ministry of Education in 1981 recommended that supervisory officials utilize the following evaluative criteria for home-based education programs:

- The supervisory official's assessment of the educational growth of the pupil based on:
    - Discussions with the child; and
    - Examination of written work of the pupil; and
- Scores on standardized achievement tests in language and mathematics compared with the norms of pupils of similar age and background.

In Manitoba, parents submit progress reports three times a year on the topics and skills covered and grade levels achieved by each child in each subject.

In Alberta, section 5 of *The Home Education Program Regulations* provides that:

> A resident board or a willing non-resident board that is supervising a home education program shall
> (a) assess or provide for the assessment of the student's achievement on a regular basis and communicate those results forthwith to the parent,
> (b) inform the parent if, in the opinion of the board, reasonable achievement for that student is not being shown, and
> (c) make recommendations to the parent to assist the student in increasing his level of achievement.

Across Canada, public school principals are generally responsible for evaluating children upon entry or re-entry into public schools and placing them at the most appropriate grade levels. As long as the children have achieved satisfactory progress on the home-based education program, principals will normally place them at their age-grade level.

From province to province, home-educated students can generally earn secondary level credits:

- By entering or re-entering the public education system at the secondary level;

- By taking courses from provincial correspondence schools, or from other accredited correspondence or extension school programs; or
- By challenging departmental examinations.

In Nova Scotia, where the province has not had departmental examinations since 1972, and where a certified teacher from a local public school is closely supervising the instruction in the home study program, students can also earn secondary level credits by writing the end-of-term examinations being written by the students at the local public school.

In Alberta, section 7 of *The Home Education Regulations* provides that:

> A student in a home education program following a course of studies prescribed or approved by the Minister under section 25(1)(a) or (b) of the Act is eligible to receive high school credits if the requirements of the Minister are met.

This means that either the parents must be certified teachers, or the board of education must appoint a certified teacher to supervise closely the instruction which the children on the program are receiving.

Questions, Discussions, Recommendations, and Understandings

Question (B.1)

What regulations and policies, if any, should there be with respect to goals of education, and courses and programs of study in home-based education programs?

Discussion

At the second meeting of the Advisory Committee in March 1991, each of the organizations represented on the Committee made a presentation to the Committee with respect to (1) their organization's goals and philosophy; (2) their membership and operations; (3) how they perceived their role in Saskatchewan education; and (4) their views on public schools and home-based education.

During their presentations, the representatives of home-based education, while discussing the goals of their organizations, also discussed the goals of education for the parents which they represented. Throughout their presentations, they stressed that most home-based educators are now educating their children at home for positive reasons. While some parents may have started for negative reasons, such as a negative reaction to some aspect of public education, unless such parents develop positive reasons for continuing to educate their children at home, they do not generally last very long as home-based educators.

While home-based educators vary greatly in their philosophical approaches to education, which variations are most apparent with respect to program structure, nonetheless, home-based educators are united on several points:[7]

- A strong love for children, and a deep concern for their education, as evidenced by the sacrifices which they make to educate their children at home;

- A desire to develop in their children high moral and behavioural standards, a strong sense of good character, and a healthy self-worth; and

- A desire that their children become friendly, sociable, service-oriented, and responsible members of their families and society as adults.

Also, notwithstanding the broad continuum of philosophical perspectives among home-based educators in Saskatchewan, most perspectives are variations or combinations of three major perspectives, as follows.

The first perspective, whose adherents call themselves "self-guided learners", possess in common a desire to de-institutionalize education.[8] They see learning as an organic process -- a natural part of life. They do not believe that one can put education in a box and still expect learning to flow freely with other aspects of human development. Often, they observe the institutionalization of education as actually hampering child development -- intellectually, emotionally, and physically.

As a result, self-guided learners take an unstructured approach to home-based education, generally believing that children will learn what they are ready to learn when they are ready for it. The parent's role is to respond to the child's lead and enquiries. Parents provide an environment that is conducive to learning and creating. Parents provide friendship and emotional support, expectations, resources, and tools. They take their children to libraries and museums, read to them, answer questions, and direct them towards available classes and workshops of various kinds. All the while, parents pay very close attention to what their children are capable of and where they need guidance at any particular time.

The philosophy of self-guided learning has evolved largely from the writings of John Holt. While there have existed reputable, well-established home education programs in North America for roughly the last one hundred years,[9] three of Holt's books -- *How Children Fail*, *How Children Learn*, and *Teach Your Own* -- popularized the concept of home education in the 1970s and 1980s.[10] Believing that children learn better from doing real things rather than made-up exercises, Holt advocated such an unstructured approach to learning that requires parents to be flexible and creative.

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[7] See Appendix 9, "Presentation on Behalf of Saskatchewan Home-Based Educators".

[8] See Appendix 10, "Presentation on Behalf of Self-Guided Learners", for a lengthier presentation of this approach to home-based education.

[9] For example, the Calvert School in Baltimore was founded in 1897.

[10] Other books on education by John Holt include *What Do I Do Monday?*, *The Underachieving School*, *Freedom and Beyond*, *Escape from Childhood*, and *Instead of Education*.

The second major perspective is that of Raymond and Dorothy Moore -- professional educators, who, with no close seconds, have done more empirical research on home-based education in North America than anyone else, among other things, specifically setting out to test the educational theories of John Holt. Based upon their research, the Moores have generally concluded that North Americans are rushing their children out of the home and into school long before most children, particularly boys, are ready for school. Early schooling is burning out not only the children, but also the teachers who are attempting to cope with these unready children.[11] For example, cognitively speaking, most children simply are not ready to handle cause-and-effect reasoning before late 7's to early 11's.

The Moores also decry the negative sociability that is all too often associated with peer dependency in institutionalized school settings. Based upon their research, peer dependency leads to a pervasive pess[illegible] -- about themselves, their future, their parents, and even their peers. Such loss of sel[illegible]ection and self-worth then contributes both to learning failure and delinquency.[12]

The Moores conclude that, where possible, children should be withheld from institutionalized schooling until at least ages eight to ten. For young children, they advocate fewer limits of classroom and workbooks and more free exploration under the guidance of warm, responsive parents. They advocate less training to be simple repeaters, and more concern for readiness for learning and ability to think. For older children, they advocate a "project" or "integrated" method. For example, while learning to cook, children can also learn such things as fractions, measurements, multiplication, division, some properties of chemistry, and neatness.

The third major perspective, associated with many evangelical Christians, is a traditional, back-to-basics approach to learning with a Christian philosophical base. Such parents feel that the public schools have neglected the basics by becoming too wrapped up in educational fashions such as family life education, sex education, drug education, and values clarification. They are also concerned about the non-Christian values that they perceive to underlie these fashions.

While every child has the right to an education, philosophical beliefs form the foundation for all learning. Moral, religious, and philosophical values are the most important educational goals. Academic training, which itself is only a small part of education, is never obtained in a moral vacuum. Education is a life-long process, the most valuable life-skill being learning how to learn. Consequently, literacy skills are the most useful of all academic skills.

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[11] See, for example, Raymond S. Moore and Dorothy Moore, "When Education Becomes Abuse: A Different Look at the Mental Health of Children," *Journal of School Health* (February 1986).

[12] Raymond S. Moore, "Research and Common Sense: Therapies for our Homes and Schools," *Teachers College Record* 84 (Winter 1982), p. 366.

As the largest supplier of Christian curricula and materials to home-based educators in Saskatchewan, Image Extension School believes that that learning which is measurable should be measured.[13] Grades or measures of achievement should be based upon improvement. Learning should be the constant, not time. Students should be individually challenged at their own academic level on a continual basis, and advanced only as they master each step towards the ultimate goal. The standard of perfection is set by God's creation; His laws, principles, and precepts; and His Word.

The public education representatives on the Committee responded to the above presentations by saying that neither public education nor home-based education was on trial on this Committee. Home-based educators always spoke in terms of ideal home-based education programs. Are all home-based education programs ideal programs? Surely not, just like all public schools are not necessarily ideal public schools. Home-based educators do not have a monopoly on caring for children. There exist many sincere and dedicated public educators, too.

Public educators were also aware of the recent academic research on child development. Different children learn in different ways. For this very reason, among others, the public education system embarked upon the present curriculum and instruction reforms in 1982, now known as Core Curriculum.

Under Core Curriculum, the public education system is now committed to a philosophy of resource-based learning that encourages all schools to provide students with access to a broad range of curriculum resource materials. Under the adaptive dimension, public education teachers are now using varied resource materials and instructional methods in order to meet the needs and abilities of all students.

Consistent with the expressed objectives of home-based educators, the official *Goals of Education for Saskatchewan* embody a student-centred approach to learning which recognizes the inherent worth and potential of each individual student; address all aspects of child development -- spiritual, ethical, intellectual, emotional, and physical; and address the knowledge, skills, and attitudes necessary for life-long learning and for living in society.

The official *Goals* were designed to be inclusive, not exclusive -- to encompass all legitimate perspectives in our pluralistic and multicultural society, including Christianity. While providing sufficient latitude to accommodate the educational aspirations of all parents for their children, this common set of educational goals was needed in order to provide a common sense of direction for our society. Children in home-based education programs should be able to enter or re-enter public or independent schools with a minimum of difficulty.

Also, the *Goals* were goals of education, not goals of schooling. Boards of education, independent schools, and home-based educators had the freedom to add to these goals, and to determine how best to achieve them in their own situation. All these perspectives were now enshrined in the independent schools regulations and policies with respect to goals of education in independent schools.[14]

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[13] See Appendix 11, "Presentation on Behalf of Image Extension School."

In the light of this, the public education representatives said that most of the implicit criticisms of the public education system were now out of date. Also, as one of the two at-large representatives on the Committee said, "Home-based educators' generalizations and perceptions of the public education system are examples of communications problems and misunderstandings, the degree of which is quite remarkable!"

The Committee searched for recommendations that would both safeguard the public interest in the education of all children and preserve the individual conscience of parents who are educating their children at home. The Committee agreed that the independent schools policy with respect to goals of education in registered independent schools also provided an appropriate basis for home-based educators, since it already addressed virtually all the issues which home-based educators, like independent schoolers before them, had raised with respect to the *Goals of Education for Saskatchewan* and Core Curriculum.

The major remaining issue was what requirements, if any, should there be with respect to courses and programs of study in home-based education programs. After acknowledging that it would be impractical to establish detailed curriculum requirements without damaging the integrity or the *raison d'etre* of home-based education programs, the Committee concluded that each registered home-based education program should have a written educational plan that is not inconsistent with the *Goals of Education for Saskatchewan* and not inappropriate for the age and development of the children in the program.

Since, in accordance with guiding principle #5 in Chapter III, the onus of proof is on the registering authority, the intent of this requirement is for parents to demonstrate that they have a positive and constructive approach to the education of their children, before commencing their home-based program.

Recommendations

(B.1.1) *That each registered home-based education program must have a written educational plan that is:*

- *Not inconsistent with the Goals of Education for Saskatchewan; and*
- *Not inappropriate for the age and development of the children in the program.*

(B.1.2) ***That these requirements are not intended to diminish or to infringe on the individual conscience of the parents who are directing the home-based education program, subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.***

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[14] See the *Independent Schools Policy Manual* (May 1991), Policy A.1.3.

(B.1.3) *That at initial registration, the parents provide the registering authority with a written educational plan for their children which contains the following elements:*

- *The parents' philosophy of education and the purpose of their home-based education program springing from their philosophy of education. This may also include the parents' overall philosophy or world view from which the parents have derived their particular philosophy of education.*
- *The learning objectives*[15] *for each child in the home-based education program for the current year. Following the Goals of Education for Saskatchewan, these objectives should:*
    - *Recognize the inherent worth and potential of each individual child;*
    - *Address the various aspects of child development, such as spiritual, ethical, intellectual, emotional, and physical development;*
    - *Develop knowledge, skills, and attitudes for living in society; and*
    - *Lay a foundation for life-long learning.*
- *The learning environment for the home-based education program; the expected educational activities; and the instructional and support materials which the parents intend to utilize in order to achieve the learning objectives for the current year. (Where applicable, the latter should include reference to the major supplier, if any, of instructional and support materials for the home-based education program, such as a correspondence school or an extension school.)*

(B.1.4) *That the registering authority* ***receive*** *the written educational plan for each home-based education program before accepting the registration. The registering authority has the onus, if it does not intend to register the program, to demonstrate that the written educational plan is:*

- *Inconsistent with the Goals of Education for Saskatchewan; or*
- *Inappropriate for the age and development of the children in the program.*

(B.1.5) *That subsequently, the registering authority monitor the registered home-based education program in accordance with the written educational plan submitted by the parents for their children.*

Understandings

Written educational plans will be attached to the registration form for the home-based education program.

While written educational plans must contain the three major elements in recommendation (B.1.3), parents have the freedom to structure their written educational plan in accordance with the goals and the nature of their home-based education program.

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[15] "Learning objectives" describe specific skills, abilities, knowledge, attitudes, and values which students are intended to develop in their educational program. See Saskatchewan Education, *Core Curriculum Guides: Standardization of Contents and Format* (September 1991), for a definition and discussion of "learning objectives".

Written educational plans represent the opportunity for parents to demonstrate that they have a positive, constructive approach to the education of their children.

Written educational plans should provide adequate information for the registering authority to have a fair opportunity to determine whether the plan is not inconsistent with the *Goals of Education for Saskatchewan* and not inappropriate for the age and development of the children on the program.

Written educational plans are not expected to contain a scope and sequence of content to be learned throughout the school year.

Written educational plans may be self-generated, with or without the help of a home-based education support group, or commercially-generated by a supplier of home-based education curricula.[16]

Instructional and support materials can reflect the range of accepted scholarly thought about the means by which learning occurs rather than be based upon a single theoretical framework.

The guidelines for the review of written educational plans by registering authorities should be similar to the "guidelines" for the evaluation of the goals of education of independent schools by Saskatchewan Education.

Recommendation (B.1.2) is similar to subsection 18(2) of *The Independent Schools Regulations.*

In the future, home-based educators, as a group, should be involved in any reformulation of the official goals of education for Saskatchewan.

Question (B.2)

What should be the role of Saskatchewan Education with respect to curriculum and instruction in home-based education programs?

Discussion

The Committee began its discussion of this question by reviewing the role of Saskatchewan Education with respect to curriculum and instruction in the public education system.

In addition to developing new programs and courses within the framework of Core Curriculum, the Department assists public schools with identifying suitable curriculum resource materials by evaluating, approving, and/or recommending textbooks, learning resource materials, and teacher references for use with provincially developed programs and courses. Both approved and recommended materials for public schools are listed in the publication, *Key Curriculum Resource Materials*, and the semi-annual updates to this publication.

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[16] Registering authorities should recognize that home-based educators often do not receive detailed commercially-generated educational plans from support groups or suppliers until the beginning of the academic year in September.

While the larger (urban) boards of education may have the resources to undertake some of these activities, most do not. The economies of scale in the development of programs and courses, and in the evaluation of textbooks, resource materials, and teacher references make it logical that the Department should be primarily responsible for these tasks.

The Department also assists (primarily rural) boards of education by operating the Saskatchewan Correspondence School. Established in 1925, the correspondence school first offered elementary grades to children who could not attend school, and subsequently high school grades as well. Since 1977, it has only offered high school courses directly, but still offers elementary courses in conjunction with the British Columbia Correspondence School. In 1990-91, it offered 8131 courses to 5581 students, of which 3505 were school-age and 2076 were adults. Most school-age students were rural high school students experiencing a time-table conflict or desiring a course not offered in their particular high school. In 1990-91, the school supplied the British Columbia correspondence school material to 42 students, most of whom were being educated at home.

First, the Advisory Committee concluded that the Saskatchewan Correspondence School should continue to provide, either directly or indirectly, access to a correspondence school program for the elementary, middle, and secondary levels of schooling.

Second, following the logic of economies of scale, the Committee concluded that the Department should assist boards of education with the registration of home-based education programs by developing and maintaining a materials list for home-based education programs in Saskatchewan.

Since parents educate their children at home in order to achieve religious or philosophical objectives which may not or cannot be satisfied within the public education system, or in registered independent schools, certain instructional and support materials, while academically credible and appropriate for home-based education programs, may be too overtly religious or philosophical to be utilized in the public education system and to appear on the approved or recommended materials list for public schools. Furthermore, books and materials for home-based education programs should most appropriately be evaluated by certified or degreed teachers who are educating or have educated their children at home rather than by teachers in public schools.

Like the recommended materials list for public schools, the materials list for home-based education programs would be neither restrictive nor prescriptive. Home-based educators could also choose instructional and support materials from other sources. Consistent with the fact that home-based education programs will be registered rather than licensed, the materials list would represent an **acknowledgement**, rather than an **approval** by Saskatchewan Education that the materials on the list could be used in home-based education programs.

The following would appear on this materials list for home-based education programs:

- Textbooks, learning resource materials, and teacher references that appear on the approved and recommended materials lists for public schools;
- Courses, textbooks, and learning resource materials that are being supplied by the Saskatchewan Correspondence School;
- Textbooks that appear on the approved materials list for independent schools; and
- Courses, textbooks, learning resource materials, and teacher references that are presently being used in registered or accredited independent schools in Saskatchewan.

In addition, any parent that is directing a home-based education program for his or her children, or any director of education could request that additional courses, textbooks, or learning resource materials be added to the materials list for home-based education programs. When receiving such requests, the Department would evaluate them, in the usual manner, for consistency with the *Goals of Education for Saskatchewan*, appropriateness for the age and development of the child, and respect for the academic integrity of the discipline, subject, or area of study in question.

Recommendations

(B.2.1) *That Saskatchewan Education continue to provide, either directly or indirectly, access to a correspondence school program for the elementary, middle, and secondary levels of schooling.*

(B.2.2) *That Saskatchewan Education develop and maintain a materials list for home-based education programs, and publish this in a manner that is efficient and convenient for registering authorities to utilize in registering home-based education programs.*

(B.2.3) *That the materials list for home-based education programs represent an **acknowledgement** by Saskatchewan Education that the materials on the list may be used in home-based education programs, not necessarily an **approval** by the Department for use in home-based education programs.*

(B.2.4) *That the materials list comprise materials from which home-based educators may choose their instructional and support materials for their home-based education programs. The list being neither restrictive nor prescriptive, home-based educators may also choose instructional and support materials from other sources.*

(B.2.5) *The following shall appear on the materials list for home-based education programs:*

- ▸ *Textbooks, learning resource materials, and teacher references that appear on the approved and recommended materials lists for public schools;*
- ▸ *Courses, textbooks, and learning resource materials that are being supplied by the Saskatchewan Correspondence School;*

- *Textbooks that appear on the approved materials list for independent schools; and*
- *Courses, textbooks, learning resource materials, and teacher references that are presently being used in registered or accredited independent schools in Saskatchewan.*

(B.2.6) *That any parent who is directing a home-based education program for his or her children, or any registering authority may request that additional courses, textbooks, or learning resource materials be added to the materials list for home-based education programs. Such requests should:*

- *Be in writing;*
- *Indicate the subject(s) and grade level(s) for which the textbooks or learning resource materials should be used;*
- *Provide reasons why these courses, textbooks, or resource materials should be added to the materials list for home-based education programs.*

(B.2.7) *That when Saskatchewan Education receives such a request, the Department evaluate each request in accordance with:*

- *Consistency with the Goals of Education for Saskatchewan;*
- *Appropriateness for the age and development of the child; and*
- *Respect for the academic integrity of the discipline, subject, or area of study in question. Materials must sustain both the core bodies of knowledge upon which the disciplines are founded and the principles by which the disciplines generate new knowledge.*

Understandings

The Department's supervisory official for independent schools will already be familiar with the courses, textbooks, and learning resource materials that are presently being used in registered and accredited independent schools in Saskatchewan. Nonetheless, the Department will need to allocate departmental personnel and assign responsibility for the additional task of evaluating materials for use in home-based education programs.

At its discretion, for the efficiency and convenience of boards of education, the Department may annotate various items on the materials list with respect to (1) the religious or philosophical perspective of the materials; or (2) consistency with the foundational and learning objectives of corresponding provincially developed courses of study.

The materials list for home-based education programs has a different purpose from the recommended materials list for independent schools. The latter consists exclusively of approved textbooks which are intended:

- For use as primary resource materials for specific provincially developed programs and courses at the elementary, middle, and secondary levels;
- As a substitute for textbooks on the approved materials list for public schools; and
- As an educational alternative, primarily for accredited independent schools.

Question (B.3)

What should be the role, if any, of independent schools, correspondence schools, and extension schools with respect to curriculum and instruction in home-based education programs?

Discussion

As has already been mentioned, home-based educators represent a philosophically diverse group of educators, which diversity is most apparent in relation to program structure. Various publishers, suppliers, and support groups have arisen in response to this philosophical diversity.[17]

Major publishers include A Beka Books, Accelerated Christian Education, Alpha Omega, Bob Jones University Press, Christian Light Education, and Rod and Staff, all of which have developed curriculum materials specifically designed for use in home-based education programs.

Suppliers include correspondence schools, like the Saskatchewan Correspondence School in Regina, and extension schools, like Image Extension School in Prince Albert. While both are suppliers, correspondence schools generally provide individual courses of instruction which **supplement** curricula provided in a regular school or by a home-based education program. Extension schools, on the other hand, generally provide all the services by distance education which regular schools, either public or independent, normally provide to students in regular attendance in a classroom. Like a regular school, an extension school provides complete programs and supervision of these programs, but, like a correspondence school, it may also provide individual courses of instruction.

Non-government extension schools are therefore similar to independent schools except that they provide educational services on a distance education basis. Image Extension School, for example, meets all the requirements for registration as an independent school in Saskatchewan except for providing an educational program in one fixed location with a school year and hours of instruction consistent with those of the public education system.

Out-of-province extension schools such as A Beka Video Home School, which enrols Saskatchewan students, generally register with the province or state in which they are located. Some, like the Calvert School in Baltimore, are actually accredited with their respective state department of education.

Support groups like the Moore Canada Child Development Centre in Lillooet, British Columbia, and Christian Liberty Academy in Arlington Heights, Illinois, operate consulting services for home-based educators. While reference is often made to the "Hewitt-Moore curriculum", rather than publishing its own materials, the Moore Canada Child Development Centre reviews and selects academic materials from a number of different publishers, both Christian and secular, selecting what they judge to be the highest quality materials for each grade level for use in a home-based education program. Their underlying approach is to recommend materials for children at their optimum learning level and for the children to proceed at their own rate.

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[17] See Appendix 5.

As previously mentioned under question (A.5) above, the public education representatives on the Advisory Committee were unwilling to consider the registration of independent extension schools with Saskatchewan Education at the present time. The registration of independent schools *per se*, pursuant to the new independent schools regulations and policies, was a relatively new phenomenon. Until the new legal framework for independent schools *per se* had proven itself, public educators could not consider extension schools as eligible for registration as registered independent schools.

Nonetheless, the public education group on the Committee recognized that publishers, suppliers, and support groups provided a potentially valuable resource to home-based educators in Saskatchewan, which Saskatchewan Education and boards of education could not and should not attempt to duplicate. While home-based educators had to register their educational program either with a board of education, or with Saskatchewan Education, they could continue to strengthen their programs with the help of the various publishers, suppliers, and support groups.

Recommendations

(B.3.1) *That home-based educators may continue to strengthen their programs with the help of various publishers, suppliers, and support groups.*

(B.3.2) *That, in the future, Saskatchewan Education consider and review the question of independent extension schools' registering directly with the Department of Education.*

Question (B.4)

What provisions, if any, should be put in place in order to recognize and/or assess the academic achievement of children in home-based education programs?

Discussion

This question encompasses three related, but separate questions: (1) the evaluation of the educational progress of children in home-based education programs; (2) entry or re-entry into the public education system; and (3) issuing secondary level credits for children in home-based education programs.

The current approach of Saskatchewan Education to student evaluation is contained in the document, *Student Evaluation: A Teacher Handbook*. Curriculum, instruction, and evaluation are closely related. Evaluative procedures should relate to:

- The *Goals of Education for Saskatchewan*;
- The age and development of the child;
- The needs of the child, e.g. children with disabilities;
- The nature of each discipline, subject, or area of study;
- The learning objectives of the programs of study being used; and
- The instructional methods and resource materials being used.

Evaluative procedures should be consistent with generally accepted evaluative principles based upon scholarly educational research, and should address not only the academic development of children, but also the emotional and physical development of children.

Each public school principal has the authority and responsibility, subject to the policies of the board of education, to establish, in consultation with his or her staff, the procedures and standards for evaluating the progress of the students enrolled in his or her school, and for making promotions.

This includes the authority to place in-coming students at their appropriate grade level. When placing students, in order to be fair and equitable, public school principals generally rely on indicators such as:

- The age of the student;
- The grade level in the previous school;
- The student's academic progress in the previous school; and
- The student's performance on standardized achievement tests such as the Canadian Test of Basic Skills and the Canadian Achievement Test.

When placing students at the secondary level, principals also consult the Department's *Credit Transfer Guide*, or consult directly with officials in the Department's evaluation division.

Also at the secondary level, students in public schools and accredited independent schools receive credits for courses taken on a Departmental transcript, called the "Record of Secondary Level Standing". Students can receive complete secondary level standing for earning 24 credits in accordance with provincial curriculum policy.

Students in registered independent schools, which are not accredited, may receive secondary level credits by taking correspondence courses, numbered 10, 20, or 30, offered by the Saskatchewan Correspondence School, or by challenging Grade 12 departmental examinations for 100 percent. At the present time, the Department presently offers the following examinations: English A30 and B30; French 30, mathematics 30, algebra 30, and geometry-trigonometry 30; physics 30, chemistry 30, biology 30, BSCS biology 30, and geology 30; social studies 30, social studies/history 30, economics 30, and geography 30.

While students may challenge the Grade 12 departmental examinations before they are 18 years of age, they cannot achieve Grade 12 standing on the basis of departmental examinations alone until they are 18 years of age.[18] To receive adult Grade 12 standing, a person must be 18 years of age; out of public school for at least one year; and hold a minimum of eight level 30 credits as follows:

- English A30 and B30;
- One of social studies 30, social studies/history 30, economics 30, or native studies 30;
- One credit from each of the social science, mathematics, and science level 30 areas of study; and
- Two elective credits.[19]

Home-based education representatives on the Committee expressed concern that exisiting Departmental polices might be discriminating against students on the basis of age, since students would be unable to continue with post-secondary studies until after they had turned 18 years of age, even if they had challenged and passed the Grade 12 departmental examinations.

The public education representatives on the Committee were not willing to consider any modifications to the present policies of the Department. The Department had to have one set of criteria for granting secondary level standing and not two. The Department could not grant privileges to students in registered home-based education programs that they did not also grant to students in public high schools, without compromising the Department's entire system of granting secondary level standing in the public education system.

Since, when discussing question (A.2), the Committee had previously agreed that it was impractical and inappropriate to consider accrediting home-based education programs, it would only be possible for students in registered home-based education programs to achieve secondary level credits:

- By taking correspondence courses from the Saskatchewan Correspondence School, or another accredited correspondence or extension school; or
- By challenging the provincial Grade 12 departmental examinations for 100 percent.

Recommendations

(B.4.1) *That upon entry or re-entry into the public education system, public school principals place in-coming students from home-based education programs at the appropriate grade level in a fair and equitable manner.*

(B.4.2) *That registering authorities be responsible for providing information, at the request of home-based educators, on the current provincial policies with respect to issuing secondary level credits and secondary level standing.*

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[18] Complete secondary level standing (24 credits) represents high school graduation from the public education system. While Grade 12 standing alone may be acceptable for entrance into the province's post-secondary institutions, it does not represent high school graduation from the public education system.

[19] For more information, see Appendix 15.

Understandings

Registering authorities will normally inform home-based educators of the evaluative procedures for entry or re-entry into the public education system, and of the avenues for receiving secondary level credits, at the time of the initial registration of the home-based education program. Saskatchewan Education is presently reviewing the provincial regulations and policies for issuing secondary level credits and secondary level standing.

Saskatchewan Education will prepare an information booklet on home-based education for the benefit of both boards of education and home-based educators.

The written educational plan for each child may have an impact on the grade placement upon entry or re-entry into the public education system.

It is inappropriate to specify in policy which particular evaluative instruments, such as testing, that registering authorities or parents should utilize in evaluating the educational progress of students in home-based education programs.

Question (B.5)

What responsibilities, if any, should be placed on parents and registering authorities with respect to student records and reports of students' progress in home-based education programs?

Discussion

At the present time, each public school maintains a confidential **permanent record** for each pupil enrolled in the school, which contains:

- The pupil's basic identifying information;
- The pupil's enrolment and attendance; and
- The pupil's academic marks.

As well, each public school maintains a **cumulative record folder** for each pupil which contains, in addition to the permanent record, materials such as:

- Standardized test results;
- Samples of the pupil's work;
- Teachers' comments;
- Correspondence with parents/guardians;
- Health concerns; and
- Medical and psychological reports prepared by other agencies.

When a pupil transfers from one school to another, the receiving school normally requests a transfer of the pupil's cumulative record folder. The former school generally keeps a copy of the pupil's **permanent record**, while sending the **cumulative record** (which contains the permanent record) to the receiving school. At its discretion and in the interests of the child, the former school may appropriately cull the cumulative record folder before sending it to the receiving school.

Consistent with recommendation (A.7.3), the Committee concluded that each registering authority should establish and maintain a permanent record for each child in each home-based education program. Beyond this, since home-based educators themselves are directing the educational program of their own children, they should be responsible for establishing and maintaining records of their children's progress in something similar to a cumulative record folder. This would provide a record of what the children have accomplished in the assessment of the parents.

Recommendations

(B.5.1) *That each registering authority establish and maintain a permanent record for each child in each home-based education program.*

(B.5.2) *That parents who are educating their children at home be responsible for establishing and maintaining a cumulative record of their children's progress on the home-based education program.*

Understandings

Upon request of the parents, registering authorities will provide copies of the cumulative record format and folder used by the public education system.

The nature of the parents' records of their children's progress will depend upon:

- The written educational plan for the home-based education program;
- The age and development of each child; and
- The instructional methods and resource materials being used.

The parent's records should contain information not only on the academic development of their children, but also on their emotional and physical development.

Correspondence schools and extension schools in which the children are enrolled may also keep records of the children's academic progress.

Parents and children will have access to the children's permanent records in the same manner as parents and children in the public education system.

Upon termination of a home-based education program, the records should be placed in a location which is in the best interests of the child.

Pursuant to subsection 16(5) of *The Divorce Act* and subsection 9(2) of *The Children's Law Act*, a non-custodial parent is also entitled to access to a child's records unless the court has specifically denied the non-custodial parent access to the child. The right of access to records applies not only when the courts have made an order for access, but also when a separation agreement between the two parties makes provision for access.

Table [illegible]

Goals of Education for Saskatchewan

Goals of education in Saskatchewan should direct efforts to develop the potential of all students in the province. Education should affirm the worth of each individual and lay the foundation for learning throughout life.

Students benefit from exposure to learning in a variety of situations. Attainment of the goals is a venture the school shares with the student, the home, the church, and the community. Although the degree of school responsibility will vary from community to community, the school has some responsibility for each goal.

A body of knowledge and a range of skills and attitudes are necessary to function in a changing world. It is intended, then, that education will enable Saskatchewan students to do the following to the best of their abilities:

Basic Skills

1 Read, write, and compute.
2. Acquire information and meaning through observing, listening, reading, and experiencing.
3. Process information through intellectual and technological means.
4. Solve problems by applying basic principles and processes of the sciences, arts, and humanities.
5. Communicate ideas through written and spoken language, mathematical symbols, and aesthetic expression.

Life-Long Learning

1. Seek and value learning experiences.
2. Act as self-reliant learners.
3. Base actions on the knowledge that it is necessary to learn throughout life.

Understanding and Relating to Others

1. Act on the belief that each individual is worthwhile.
2. Base actions on the recognition that people differ in their values, behaviours, and life styles.
3. Interact and feel comfortable with others who are different in race, religion, status, or personal attributes.
4. Develop a sense of responsibility toward others.

Self Concept Development

1. Perceive themselves in a positive way.
2. Appreciate their own abilities and limitations.
3. Set and work towards personal goals.

4. Assess praise and criticism realistically.
5. Present themselves with confidence.

Positive Life Style

1. Practice appropriate personal hygiene, engage in sufficient physical activity, and maintain a nutritionally balanced diet.
2. Avoid harmful use of alcohol and other drugs.
3. Cultivate interests that may be the basis for personal development and leisure pursuits.
4. Recognize the importance of productive activity.
5. Display initiative and pursue tasks diligently.
6. Maintain a safe and healthful community.
7. Respect and seek to enhance the environment.
8. Appreciate beauty in its many natural and constructed forms.
9. Express themselves creatively.

Spiritual Development

1. Seek an understanding of the purpose and worth of human existence.
2. Develop a knowledge of God.
3. Respect family, religion, and culture in a pluralistic society.

Career and Consumer Decisions

1. Develop an awareness of career opportunities.
2. Develop interests and abilities in relation to vocational expectations.
3. Adapt to shifts in employment patterns and technology.
4. Make informed consumer decisions.

Membership in Society

1. Assume responsibility for their own actions.
2. Work with others to achieve individual and group goals.
3. Participate in the democratic processes of government and perform the duties of citizenship.
4. Respect the rights and property of others.
5. Act with honesty, integrity, compassion, and fairness.
6. Develop a sense of national pride and acknowledge the need for international understanding.
7. Work toward greater social justice.
8. Assume responsibility for dependent persons in a manner consistent with their needs.
9. Respect law and authority.
10. Exercise the right of dissent responsibly.

Growing with Change

1. Work toward immediate and long-term goals.
2. Base actions on an understanding that change is a natural process in society.
3. Select workable alternatives in response to changing conditions.
4. Develop confidence in making decisions that involve risk.

Table 5.2 (Suggested Policy Statement)

Registered Home-Based Education Programs: Written Educational Plans

Rationale

- While providing sufficient latitude to accommodate the educational aspirations of all parents for their children, a common set of educational goals is needed in order to provide a common sense of direction for our society. Children in home-based education programs should be able to enter or re-enter public or independent schools with a minimum of difficulty.

- Parents educate their children at home in order to achieve religious or philosophical objectives which may not or can not be satisfied within the public education system or in registered independent schools. Therefore, a registered home-based education program may be based upon either a religious or a philosophical perspective different from that of the public education system as long as its educational goals are not inconsistent with the *Goals of Education for Saskatchewan*.

Policy

- Each registered home-based education program must have a written educational plan that is:
  - Not inconsistent with the *Goals of Education for Saskatchewan*; and
  - Not inappropriate for the age and development of the children in the program.

- These requirements are not intended to diminish or to infringe on the individual conscience of the parents who are directing the home-based education program.

- At initial registration, the parents shall provide the registering authority with a written educational plan for their children which contains the following elements:

  - The parents' philosophy of education and the purpose of their home-based education program springing from their philosophy of education. This may also include the parents' overall philosophy or world view from which the parents have derived their particular philosophy of education.

  - The learning objectives[1] for each child in the home-based education program for the current year. Following the *Goals of Education for Saskatchewan*, these objectives should:

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[1] "Learning objectives" describe specific skills, abilities, knowledge, attitudes, and values which students are intended to develop in their educational program. See Saskatchewan Education, *Core Curriculum Guides: Standardization of Contents and Format* (September 1991), for a definition and discussion of "learning objectives".

    - Recognize the inherent worth and potential of each individual child;
    - Address the various aspects of child development, such as spiritual, ethical, intellectual, emotional, and physical development;
    - Develop knowledge, skills, and attitudes for living in society; and
    - Lay a foundation for life-long learning.

  - A description of the learning environment for the home-based education program; the expected educational activities; and the instructional and support materials which the parents intend to utilize in order to achieve the learning objectives for the current year. (Where applicable, the latter should include reference to the major supplier, if any, of instructional and support materials for the home-based education program, such as a correspondence school or an extension school.)

- The registering authority shall **receive** the written educational plan for each home-based education program before accepting the registration. The registering authority has the onus, if it does not intend to register the program, to demonstrate that the written educational plan is:
  - Inconsistent with the *Goals of Education for Saskatchewan*; or
  - Inappropriate for the age and development of the children in the program.

- Subsequently, the registering authority shall monitor the registered home-based education program in accordance with the written educational plan submitted by the parents for their children.

Guidelines

- Since the onus of proof is on the registering authority, the intent of the written educational plan is for parents to demonstrate that they have a positive and constructive approach to the education of their children, before commencing the home-based education program.

- While written educational plans must contain the three major elements listed above, parents have the freedom to structure their written educational plan in accordance with the goals and the nature of their home-based education program.

- Written educational plans should provide adequate information for the registering authority to have a fair opportunity to determine whether the plan is not inconsistent with the *Goals of Education for Saskatchewan* and not inappropriate for the age and development of the children on the program.

- Written educational plans are not expected to contain a scope and sequence of content to be learned throughout the school year.

- Written educational plans may be self-generated, with or without the help of a home-based education support group, or commercially-generated by a supplier of home-based education curricula.[2]

- The *Goals of Education for Saskatchewan* are intended to be inclusive, not exclusive -- to encompass all legitimate perspectives in our pluralistic and multicultural society. They are intended to provide sufficient latitude to accommodate the aspirations of all parents for their children.

- The *Goals of Education for Saskatchewan* embody a commitment to fundamental democratic values in our society such as a concern for liberty (freedom) and a respect for the person (equality), as well as a recognition of the creative tension between freedom and equality.

- The *Goals of Education for Saskatchewan* embody a commitment to tolerance based upon the affirmed worth of each individual and the recognition that people differ in their values, behaviours, and life styles.

- The *Goals of Education for Saskatchewan* embody a commitment to rationality[3] and truth, and to rational enquiry in the pursuit of truth and knowledge.

- The *Goals of Education for Saskatchewan* do not sanction the concept of moral relativism -- a belief that when dealing with moral issues, any decision is as good as any other.[4] For many people, truth is not simply something determined by a majority, created by a class, or the product of an historical age.

- The *Goals of Education for Saskatchewan* encourage the development of fundamental moral virtues such as honesty, integrity, compassion, fairness, and justice.

- Instructional and support materials can reflect the range of accepted scholarly thought about the means by which learning occurs rather than be based upon a single theoretical framework. Therefore, the assessment of the appropriateness of the home-based education program for the age and development of the children in the program shall take into account varied instructional methods and resource materials.

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[2] Registering authorities should recognize that home-based educators often do not receive detailed commercially-generated educational plans from support groups or suppliers until the beginning of the academic year in September.

[3] Rationality is distinguished from rationalism. Rationality is "the quality or state of being agreeable to reason", or "the power of being able to exercise one's reason". Rationalism, on the other hand, is a philosophical position which claims that "reason is the only guide leading to the improvement and progress of the human race." [See *Webster's New Collegiate Dictionary*, 1981, p. 951; the *Compact Edition of the Oxford English Dictionary*, 1971, p. 951, and *Supplement*, 1987, p. 920.] Since rationalism denies any authority for knowledge other than reason, it would, for example, be inconsistent with the spiritual goals of education for Saskatchewan.

[4] Saskatchewan Education, *Understanding the Common Essential Learnings* (August 1988), p. 43.

- Saskatchewan Education expects the written educational plan of each home-based education program to reflect the parents' underlying philosophy, and expects the parents' educational practice to reflect a commitment to their educational plans for their children, for example, in their selection of instructional and support materials.

Procedures

1. At time of initial registration, the parents shall attach their written educational plan to their registration form.

2. The registering authority shall review the written educational plan according to the above policies and guidelines. The registering authority may consult with Saskatchewan Education officials in reviewing the plan.

3. If the registering authority determines that the submitted educational plan is:
   - Not inconsistent with the *Goals of Education for Saskatchewan*; and
   - Not inappropriate for the age and development of the children in the program;

   then the registering authority shall **receive** these, and, if all other aspects of the registration form are complete, shall process the registration. [See Table 4.2: "Registration Process".]

4. If the registering authority determines that the submitted educational plan is:
   - Inconsistent with the *Goals of Education for Saskatchewan*; or
   - Inappropriate for the age and development of the children in the program;

   then the registering authority shall initiate a collaborative discussion with the parents in order to arrive at an educational plan that is:
   - Not inconsistent with the *Goals of Education for Saskatchewan*; or
   - Not inappropriate for the age and development of the children in the program.

5. If the parents and the registering authority cannot reach agreement on an educational plan that is:
   - Not inconsistent with the *Goals of Education for Saskatchewan*; and
   - Not inappropriate for the age and development of the children in the program;

   Then the parents may refer their case to the established process for reviewing disagreements at the local level. [See Table 7.3: "Settlement of Disputes".]

6. When monitoring registered home-based education programs, the registering authority shall check for conformity of educational practice with the submitted educational plan of the parents.

7. Each year, the parents shall submit an updated educational plan for their children. The registering authority shall review and receive these in accordance with the above policies, guidelines, and procedures.

Table 5.3 (Suggested Policy Statement)

Materials List for Home-Based Education Programs

Rationale

- Registered home-based education programs have the freedom to provide an education from either a religious or a philosophical perspective different from that of the public education system. Parents educate their children at home in order to achieve religious or philosophical objectives which may not or can not be satisfied within the public education system, or in registered independent schools.

- Certain instructional and support materials, while academically credible and appropriate for home-based education programs, may be too overtly religious or philosophical to be utilized in the public education system and to appear on the approved or recommended materials list for public schools.

- Such instructional and support materials should be evaluated on a province-wide basis by Saskatchewan Education rather than by individual boards of education.

Policy

- Saskatchewan Education shall develop and maintain a **Materials List for Home-Based Education Programs**, and publish this in manner that is efficient and convenient for registering authorities to utilize in registering home-based education programs.

- The materials list for home-based education programs represents an **acknowledgement** by Saskatchewan Education that the materials on the list may be used in home-based education programs, not necessarily an **approval** by the Department for use in home-based education programs.

- The materials list comprises materials from which home-based educators may choose their instructional and support materials for their home-based education programs. The list being neither restrictive nor prescriptive, home-based educators may also choose instructional and support materials from other sources.

- The following shall appear on the materials list for home-based education programs:
  - Textbooks, learning resource materials, and teacher references that appear on the approved and recommended materials lists for public schools;
  - Courses, textbooks, and learning resource materials that are being supplied by the Saskatchewan Correspondence School;
  - Textbooks that appear on the approved materials list for independent schools; and

  - Courses, textbooks, learning resource materials, and teacher references that are presently being used in registered or accredited independent schools in Saskatchewan.

- Any parent who is directing a home-based education program for his or her children, or any director of education may request that additional courses, textbooks, or learning resource materials be added to the materials list for home-based education programs. Such requests shall:
  - Be in writing;
  - Indicate the subject(s) and grade level(s) for which the textbooks or learning resource materials should be used;
  - Provide reasons why these courses, textbooks, or resource materials should be added to the materials list for home-based education programs.

- When Saskatchewan Education receives such a request, the Department shall evaluate each request in accordance with:
  - Consistency with the *Goals of Education for Saskatchewan*;
  - Appropriateness for the age and development of the child; and
  - Respect for the academic integrity of the discipline, subject, or area of study in question. Materials must sustain both the core bodies of knowledge upon which the disciplines are founded and the principles by which the disciplines generate new knowledge.

Guidelines

- The primary purpose of the Materials List for Home-Based Education Programs is to assist registering authorities with the registration of home-based education programs.

- Saskatchewan Education is committed to a philosophy of resource-based learning that encourages all schools (public and independent) to provide students with access to a broad range of curriculum resource materials. While schools may and will continue to use textbooks as primary resource materials for specific programs and courses, a single textbook seldom addresses all of the foundational objectives of a particular program or course, nor can it meet the needs of all learners.

- Saskatchewan Education helps public schools identify suitable curriculum resource materials by evaluating resources, by **approving** textbooks, and by **recommending** learning resource materials and teacher references for use with provincially developed programs and courses. Both approved and recommended materials for public schools are listed in the publication, *Key Curriculum Resource Materials*, and the semi-annual updates to this publication.

- A **course of studies** means a statement of:
  - Aims and objectives and scope and sequence of content; and
  - The nature of the material;

  To be studied in a given subject or area of study in a given year or years at the elementary, middle, or secondary levels.

- A **textbook** is "a book dealing with a definite subject that is systematically arranged, intended for use at a specific level of instruction and used as a primary resource material for a specific course. The content of approved textbooks must cover a significant amount of the course."[1]

- A **learning resource material** is an "item or collection of items in any format or combination of formats that:
  - Is acquired or produced to illustrate one or more elements of a course of studies and to enrich the social, intellectual, ethical, or aesthetic experiences of the pupil;
  - May be used by the pupil independently or under teacher guidance; and
  - Is normally included in the school library or learning resource centre collection."

- A **teacher reference** is "an item in any format that is intended to enrich or enhance a teacher's understanding of a particular subject area or educational process. Teacher resources are intended to be used by teachers only, not by students."

Procedures

1. The Independent Schools Branch shall be responsible for the development and maintenance of the materials list for home-based education programs, in accordance with the above policies and guidelines. The Department's supervisory official for independent schools, as an official of the Independent Schools Branch, will already be familiar with the courses, textbooks, and learning resource materials that are presently being used in registered and accredited independent schools in Saskatchewan.

2. The Independent Schools Branch, in cooperation with registering authorities, shall develop a list of certified or degreed teachers:
   - Who are directing or who have directed home-based education programs for their children; and
   - Who are willing to evaluate materials for inclusion on the materials list for home-based education programs.

3. When a parent who is directing a home-based education program for his or her children, or when a registering authority makes a request, in writing, that a particular course, textbook, or learning resource material should be added to the materials list, then the Independent Schools Branch shall:
   - Obtain a copy of the suggested material from the publisher;
   - Evaluate the material in accordance with the above policies and guidelines; and
   - If a second opinion is needed, distribute copies to at least three certified teachers for their evaluation in accordance with the above policies and guidelines.

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[1] See Saskatchewan Education, *Policy and Procedures for Evaluation of Curriculum Resource Material* for a more complete discussion of the Department's definitions, policies, and procedures with respect to approved and recommended materials for public schools.

4. Each year, the Independent Schools Branch shall distribute an updated version of the materials list to all registering authorities. At its discretion, for the efficiency and convenience of boards of education, the Independent Schools Branch may annotate various items on the materials list with respect to:
    - The religious or philosophical perspective of the materials; or
    - Consistency with the foundational and learning objectives of corresponding provincially developed courses of study.

5. The Independent Schools Branch shall maintain samples of resource materials on the materials list for examination and perusal by home-based educators in the province.

Chapter VI

Funding, Services, and Special Needs Students

Legislation and Regulations with Respect to Public Schools in Saskatchewan

The Education Act provides for the financing of public schools from two major sources: local property taxes and provincial grants. Provincial grants are based upon the number of pupils in each school division, recognized rates per pupil, an equalization factor, and the local assessment base. Divisions with a relatively low assessment base receive more provincial grants than divisions with a relatively high assessment base.

All children between the ages of six and 21 years have the right to attend school at the cost of the school division in which their parents reside. In addition to the regular academic instruction, boards of education are required by law to provide educational services for pupils with disabilities, physical education, and driver education. Boards of education may organize cultural and athletic activities, youth travel, outdoor education and similar such activities; may provide vocational education and occupational training; and may provide programs for gifted students.

The relevant sections of *The Education Act* are as follows:

- 143(1) Subject to sections 153, 154, and 156, no teacher, trustee, director, superintendent or other school official shall in any way deprive, or attempt to deprive, a pupil of access to, or the advantage of, the educational services approved and provided by the board of education.

- 144(1) Notwithstanding anything in *The Age of Majority Act*, and except as otherwise provided in this Act, every person between the ages of six and 21 years shall have the right to attend school in the division in which he or his parents or guardian are residents, and to receive instruction appropriate to his age and level of educational achievement in courses of instruction approved by the board of education in the school or schools of the division.

  (2) Except as otherwise provided in this Act, the educational services mentioned in subsection (1) are to be provided at the cost of the school division, and no fees for tuition, transportation or any other expenses with respect to attendance at school are to be charged with respect to a pupil who is a resident in the school division or whose parent or guardian is a resident in the school division.

- 145 Except as otherwise provided in this Act, services approved by a board of education, with respect to the pupils who are eligible for the special programs mentioned in section 184 or who are otherwise entitled to services of benefit to their general health and well-being, shall be provided without cost to such pupils or their parents or guardians.

- 179 A board of education may authorize the organization of cultural and athletic activities, youth travel, outdoor education and similar activities as features of the educational program of the schools.

- 183(1) Courses of vocational education and occupational training, may, subject to the regulations, be provided where it is considered advisable by the board of education to do so.

- 184(1) For the purposes of this section, "pupil with a disability" includes a pupil, who, under criteria prescribed in the regulations, is deemed to be unable to participate at an optimal level in the benefits of the ordinary program of the school by reason of personal limitations attributable to physical, mental, behavioral or communication disorders.

  (2) Subject to the regulations, a board of education shall provide educational services on behalf of pupils with disabilities, but:
    (a) where it is considered advisable, the board may exclude from attendance in a specific curricular program any pupil who, in the opinion of the director or superintendent, is incapable of responding to instruction in that program or whose presence is detrimental to the education and welfare of other pupils in attendance in that program, but no such exclusion shall deprive a pupil of access to alternative educational services provided by boards of education to pupils with disabilities under this section; and
    (b) where, upon investigation by and in the opinion of the director or superintendent, a pupil is so seriously disabled as to be unable to benefit from any of the instructional services provided by the board, the board shall consult with that pupil's parents or guardian, make available any of its consultant services that may be of assistance and clarify and arrange other services appropriate to the need and circumstances of the pupil.

  (3) A board of education may discharge its responsibilities under subsection (2) by providing such services within the school or in other facilities in its control or by entering into agreements with another board of education, agency, institution or person to make those services available.

- 185 Where the ordinary programs of instruction of the school are considered by the board of education to be insufficient to meet the educational needs of certain pupils of superior natural ability or exceptional talent, the board may make provision for such special programs as it considers feasible and appropriate.

- 186 Every school shall make provision for instruction and activities to promote the good health and physical fitness of its pupils and may extend such provision to include participation in programs of athletic and amateur sport organized on local, regional and provincial bases.

- 187 Subject to the regulations, every school division shall make provision for the education and training, in the elements of safety and competence in the operation of motor vehicles, for pupils who are eligible.

- 189(1) A board of education may employ one or more teachers qualified in guidance to provide specialized services to pupils and such counselling as will enable them to plan, select and pursue studies for their educational and vocational advancement.

  (2) A board of education may employ specialized personnel to provide psychological and related services considered by the board to be necessary to the growth, development and general well-being of pupils as individuals and in their educational advancement.

- 304(1) Subject to subsection (2) and (3) and any terms and conditions that may be prescribed in the regulations, each school division is entitled to an operating grant in an amount equal to the amount by which the recognized local expenditure of the school division exceeds its recognized local revenue.

  (2) The minister shall determine the recognized local expenditure for each school division and, in so doing, shall take into consideration the number of pupils enrolled in the school or schools in the division and shall, where applicable, include sums for
  (a) administration;
  (b) instruction;
  (c) plant operation and maintenance;
  (e) transportation of pupils;
  (f) any other expenditures, including fees and other payments made on behalf of pupils attending schools or institutions outside the division or otherwise outside the jurisdiction of the board of education, that may be recognized by the minister; and
  (g) approved expenditures made in previous years that were not recognized in the grant calculations for those years.

  (3) The minister shall calculate the recognized local revenue for each school division consisting of:
  (a) the product obtained when the assessment of the school division, or, where applicable, the equalized assessment determined pursuant to subsection (4) is multiplied by a mill rate fixed by the minister;
  (b) any other revenues from fees and other sources that may be recognized by the minister; and
  (c) recognized revenues received in previous years that were not recognized in the grant calculations for those previous years.

Legislation and Regulations with Respect to Home-Based Education in Other Provinces

Provinces to the east of Saskatchewan do not provide provincial grants, either to boards of education or to parents, for home-based education programs *per se* -- that is, for home-based education programs started at the initiative and under the direction of parents. They do, however, provide generally full grant recognition for school-based instruction in the home, at the initiative of directors or superintendents of education, for health, disability, or locational reasons.

Accordingly, provinces to the east of Saskatchewan also do not generally provide financial support, either directly or indirectly, for students in home-based education programs to take provincial correspondence school courses, unless this is at the initiative and under the direction of public education authorities.

In Alberta, boards of education receive the basic per student rate of funding for each student who is resident and registered on a home education program in their school division. This includes grants per student served, grants for resident students, grant recognition for correspondence school fees, special education grants, equity grants, and grants-in-lieu. In return, boards of education are required by law to supervise and to provide services to each home education program that is registered with them. Among other things, boards generally provide or pay the cost of curriculum materials, if the parents are using materials approved by Alberta Education.

In comparison with resident boards of education, willing non-resident boards receive only the grant per student served for each student that it is supervising on a home education program. This amounts to about two-thirds of the full range of grants available. The resident board retains the remaining one-third.

In British Columbia, public and independent schools receive a provincial grant equal to 12.5 percent of their basic per student rate of funding for each student registered with them on a home education program. For public schools, this amounts to approximately $500 per student; for accredited independent schools, about $250 per student; and for registered independent schools, about $50 per student.

Upon request of a parent, a public school that registers a home education program is required to provide the home learners with access to educational services in accordance with the following regulations:

> 3(1) A school that registers a child under section 13(1)(a) or (b) of the Act shall offer free of charge
>
> (a) evaluation and assessment services sufficient to enable the parents of the child to determine the educational progress achieved by the child in relation to students of similar age and ability, and
>
> (b) the loan of educational resource materials that are authorized and recommended by the minister,

(i) which, in the board's opinion, are sufficient to enable the child to pursue his or her educational program, and
(ii) which will be offered to the child on a similar basis to the offer of such educational resource materials to students.

(2) With the permission of a board, a child registered under section 13(1)(a) or (b) of the Act may attend educational programs offered by the board subject to any terms or conditions established by the board, including the payment of any fee.

In British Columbia, parents who are resident in British Columbia may enrol their children, free of charge, in one of the nine regional correspondence schools, like enrolling them in any public school.

Questions, Discussions, Recommendations, and Understandings

Question (C.1)

Who should pay the costs of home-based education programs, in all of their aspects, from registration and monitoring to materials, equipment, and supplies?

Discussion

The public education representatives on the Committee began discussion of this question by pointing out that, under clause 156(a) of *The Education Act*, directors of education were acting on behalf of the Minister, who in turn represented the compelling interest of the state in the education of all children.

For boards of education, the registration, monitoring, and provision of other services to home-based educators was going to be a costly activity. So long as the province delegated these activities to boards and directors of education, boards of education should receive compensation for services rendered.

The home-based education representatives on the Committee accepted the logic of compensating boards of education for services rendered. However, if taxpayers' dollars were going to be distributed on their behalf, then they felt that they should receive some benefits from the taxpayers' dollars so distributed.

This led to a lengthy discussion about the existing system of financing public education in Saskatchewan: how boards of education established their annual budgets and mill rates; how the province distributed provincial grants in order to equalize educational opportunities throughout the province; and how boards of education were accountable for the public funds which they spent. While boards of education were required by law to provide specified educational services to all children between the ages of 6 and 21 who enrolled in a school in their division, they also retained a certain degree of local autonomy to spend public funds in the most efficient manner in the light of the local circumstances in their school division.

For students enrolled in public schools, provincial grants did not represent a voucher system. Hence, neither should home-based educators view grant recognition for students in home-based education programs as a voucher system. Within their available resources, boards of education could give fair consideration to fair requests from home-based educators to provide services that were similar to services normally available to other students in the school division, but they could not be expected to provide new services on demand to home-based educators. Boards would do their best to avail home-based educators of resources which they already had, but they could not be expected to meet requests for new resources.

Types of resources which boards of education might provide to home-based educators are discussed further under question (C.3) below.

Recommendation

(C.1) *That boards of education be eligible to receive the basic per pupil recognition for each pupil in their school division who is registered with the board in a registered home-based education program.*

Understandings

In accordance with existing provincial policies, this includes grant recognition for Saskatchewan Correspondence School courses,[1] special needs program funding, and designated pupil funding for students in registered home-based education programs.

Pursuant to the Deputy Minister's letter of April 10, 1992,[2] boards of education will not receive grant recognition for pupils who are registered directly with the Department of Education.

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[1] For more information, see Appendix 16.

[2] See Appendix 2.

Question (C.2)

What regulations, policies, and guidelines, if any, should be given to registering authorities with respect to monitoring of home-based education programs?

Discussion

In addressing this question, the Committee drew in large measure on the work of the Minister's Advisory Board on Independent Schools.

That Advisory Board had discussed the terms "inspection" and "supervision" of independent schools in Saskatchewan in the light of the compelling interest of the state in the education of all children, past and present practice with respect to public schools in Saskatchewan, and the two categories of independent schools -- registered and accredited.[3]

In the light of the compelling interest of the state in the education of all children, some measure of oversight is unavoidable. Since, in the case of an alleged failure of parents to provide an adequate education for their children, the burden of proof resides with public education authorities, such authorities must have open access at reasonable times to home-based education programs in order to substantiate a concern that a particular program might not be appropriate for the age and development of a particular child.

Historically, school inspection in relation to Saskatchewan's public schools involved checking off minimum criteria on a checklist. As such, it was a time-worn term that no longer reflected in an operational way the work of directors and superintendents of education in Saskatchewan. Today, present legislation and regulations refer to "supervision", which is an ongoing process aimed at the improvement of instruction in a school, that includes both evaluating and enhancing the performance of teachers, leading to teacher growth, improved instruction, and improved learner outcomes.

In clause 2(p) of *The Independent Schools Regulations*, the definition of "inspection" is considerably broader in scope than the historical concept of school inspection in relation to Saskatchewan's public schools, since it:

> (i) includes checking compliance with the Act, the regulations, and the criteria for registration on an ongoing and collaborative basis with registered independent school;
> (ii) includes observing any aspect of the educational activities and educational operations in an independent school in order to protect the societal interest of educating the pupils in the school;

In clause 2(z) of *The Independent Schools Regulations*, the definition of "supervision" is somewhat narrower in scope than present practice in Saskatchewan's public schools, since it:

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[3] Saskatchewan Education, *Final Report of the Minister's Advisory Board on Independent Schools* (November 1990), pp. 125-127. In this context, accredited independent schools includes all three categories of accredited schools, including the historical high schools and special needs independent schools.

> (iii) includes a recognition of the separate authority of church and state with respect to the operation of independent schools and schools;
> (iv) does not include responsibility for the recruitment and dismissal of independent school teachers, or the selection of programs and courses in an independent school; and
> (v) includes appreciation and recognition of the distinct philosophical orientation of each independent school.

Both the "inspection" of registered independent schools and the "supervision" of accredited independent schools involves some authority of the government over independent schools. The essential distinction is that inspection is more "re-active", while supervision is more "pro-active". Inspection is more "summative", while supervision is more "formative".

Since, when discussing question (A.2), the Committee had previously concluded that there should be only one category of home-based education programs called "registered home-based education programs", the Committee now concluded that there should be only one required level of oversight of home-based education programs. While this level of oversight would be similar to the inspection of registered independent schools, the Committee chose to refer to this as "monitoring" in the case of registered home-based education programs.

Greater degrees of involvement by a registering authority in the activities of a home-based education program will be discussed under question (C.3) below.

Recommendations

(C.2.1) *That registering authorities be responsible for monitoring registered home-based education programs.*

(C.2.2) *That "monitoring":*

- *Includes checking compliance with the Act, the regulations, and the criteria for registration of a home-based education program on an ongoing and collaborative basis with the parents who are directing the home-based education program;*
- *Includes observing or being cognizant of the educational activities of the home-based education program in order to protect the interests of society at large that the children in the home-based education program are receiving an education comparable in quality to that of children in the public schools;*
- *Includes a recognition of the right of parents to direct the education of their children at and from their home in accordance with their conscientious beliefs;*
- *Does not include responsibility for the hiring of tutors, or for the selection of programs, courses, textbooks, and resource materials in the home-based education program; and*

- *Includes a respect for and recognition of the distinct philosophical orientation of each home-based education program.*

(C.2.3) *That when monitoring the registered home-based education program, the registering authority:*
- *Respect the written educational plan of each home-based education program; and*
- *Check for conformity of educational practice with respect to this written educational plan.*

Understandings

The phrase "on an ongoing and collaborative basis" means that the registering authority will work in collaboration with the parents to meet the requirements of the regulations and policies as these apply to each home-based education program.

Monitoring is concerned with the intellectual, emotional, and physical development of the children in each home-based education program. "Observing or being cognizant of the educational activities of the home-based education program" includes assessing the academic progress of the children in the home-based education program.

It is inappropriate to specify in policy which particular evaluative instruments, such as testing, that registering authorities or parents should utilize in evaluating the educational progress of students in home-based education programs.

In the light of parents' rights to provide their children with an education in accordance with their conscientious beliefs, the phrase "comparable in quality" does not mean the same. For parental choice to be meaningful, the state has to acknowledge certain freedoms for home-based educators in respect of curricula, programs, and courses.[4]

When monitoring registered home-based education programs, the registering authority shall assume that the parents are providing their children with an education comparable in quality to that of children in the public education system unless there is evidence to the contrary.

The procedures for monitoring registered home-based education programs should be similar to the "procedures" for the inspection of registered independent schools.

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[4] See the discussion of principle #9 in Chapter III, pp. 45-47 above.

Question (C.3)

What access, if any, should students in home-based education programs have to facilities, programs, materials, equipment, and supplies in public schools?

Discussion

As mentioned under question (C.1) above, if boards of education were going to receive grant recognition for registering home-based educators in their school division, home-based educators felt that they should receive some benefits from the taxpayers' dollars so distributed to boards of education on their behalf. In addition to registration and monitoring, and by way of illustration, home-based educators desired access to services such as the following:

- Courses, textbooks, and other resource materials;
- Payment of tuition for the Saskatchewan Correspondence School;
- Access to French, music, and industrial arts programs;
- Evaluation of students' progress;
- Participation in extra-curricular athletic programs;
- Driver education;
- Services for special needs students;
- Use of school facilities for meetings; and
- Use of gymnasiums for athletic tournaments.

Representatives of home-based educators pointed out that in British Columbia, in return for receiving funding, each board of education is required to loan to home-based educators, free of charge, educational resource materials that are authorized and recommended by the Minister. With the permission of a board of education, students in home-based education programs may also attend educational programs offered by the board subject to any terms or conditions established by the board, including the payment of any fee.

In Alberta, many boards of education are regularly paying tuition fees for home-based educators to enrol in extension schools like Image Extension School, as well as covering the costs of accompanying instructional and support materials.

The public education representatives on the Committee responded, once again, that home-based educators' requests were verging on a voucher system, which was contrary to the underlying philosophy of financing public education in Saskatchewan. Boards of education were required by law to provide specified educational services to all children between the ages of 6 and 21 years who enrolled in a public school in their school division. Within their available resources, boards could give fair consideration to fair requests to provide services to home-based educators that were similar to services normally available to other students in the school division, but they could not be required to provide new services on demand to home-based educators. Boards of education would do their best to avail home-based educators of resources that they already had, but they could not be expected to meet requests for new resources.

In addition, any recommendations from the Committee with respect to services should be enabling, not mandatory. They should respect the local autonomy of boards of education. Just like Saskatchewan Education does not tell boards of education how to operate their school libraries, the Department should not tell boards of education how to provide home-based educators with access to educational services in their school division. As with other such services, the way in which home-based educators might access these services should remain a board-level rather than a provincial-level decision. Policies should reflect the local circumstances in each school division.

Recommendations

(C.3.1) *That upon request of a parent who is directing a home-based education program, a board of education may provide services, in addition to registration and monitoring, for the purpose of enhancing the home-based education program, leading to improved instruction and improved learner outcomes.*

(C.3.2) *That each board of education develop policies with respect to how home-based educators can access various kinds of services provided by the board in its school division.*

Understandings

The provision of various services by boards of education to home-based educators represents a co-operative relationship.

Home-based educators in each school division are encouraged to make themselves known to boards of education in their school division. Boards of education are encouraged to develop policies pursuant to recommendation (C.3.2) in collaboration with the home-based educators in their school division.

If parents desire services in addition to registration and monitoring, they are encouraged to make their requests known to the board of education at the time of the initial registration of the home-based education program.

When providing such services, boards of education shall:

- Respect and recognize the distinct philosophical orientation of each home-based education program; and
- Respect the written educational plan of each home-based education program.

Boards of education will generally pay the tuition fees for programs and courses from the Saskatchewan Correspondence School.

At the discretion of the board, boards of education may also provide other courses, textbooks, and resource materials to home-based educators for use in their programs.

Question (C.4)

What provisions, if any, should be made with respect to special needs students in home-based education programs?

Discussion

Ardele Gorman, Co-ordinator of Student Services for the Swift Current School Division No. 94, and one of the two at-large representatives on the Committee, made a presentation to the Committee on the delivery of special education services within the public education system.

At the present time, boards of education provide a range of services, either by themselves or through shared service arrangements among boards of education:

- Assessment and diagnostic services: intellectual, achievement, speech/language, learning difficulties, giftedness, social/emotional/behavioural difficulties.

- Direct services: remedial assistance (academic), enrichment, speech/language therapy, counselling (career, academic, personal).

- Program consultation:
  - Remedial, enrichment, speech/language, slower learners, children experiencing social/emotional/behavioural difficulties;
  - Visual or hearing impaired, chronically health impaired, mentally retarded, multiply handicapped children.

- Consultants:
  - Divisional staff: special education, curriculum/program, resource teachers, counsellors;
  - Shared Services personnel: educational psychologist, speech/language pathologist;
  - Saskatchewan Education consultants: e.g. visual impaired, autistic, hearing impaired.

- Materials: Dependent on availability as determined by each board of education.

Saskatchewan Education provides various types of funding to boards of education to assist the delivery of special needs services to students in each school division:

- Special Needs Program Funding (SNPF);
- Designated pupil funding, levels I and II;
- Special education equipment grants;
- Special education transportation; and
- Early entrance funding (i.e. before compulsory school age).

In the case of extraordinary needs for services, materials, or equipment, the board of education could also appeal to the Regional Coordinator of Special Education for additional funding.

With this background information, the Advisory Committee discussed the provision of services to special needs students in home-based education programs.

Following recommendations (C.1) and (C.2.3), the Committee quickly concluded that each board of education should be eligible to receive special needs program funding and designated pupil funding for special needs students in home-based education programs who are registered with the school division, and that each board of education should develop policies with respect to how home-based educators could access the various special needs services in the school division.

Similar to the independent schools policy on special needs students,[5] boards of education should be required to provide, at the board's expense, for assessment and diagnostic services for special needs students in registered home-based education programs. While parents may educate their children at home in order to achieve philosophical or religious objectives which may not or cannot be satisfied within the public education system, for which parents expect to pay extra, the needs of special needs children are of a different character. The assessment and diagnostic needs of special needs children are specialized educational needs for which it is the responsibility of public authorities to meet for all children, however they are receiving their education.

However, once an assessment has been made, the parents should remain responsible for making appropriate instructional adjustments, if any, to the child's program, with the assistance of board of education officials, upon request of the parents. Parents should make requests for assistance -- e.g. to develop individualized educational plans (IEPs) or to access special needs services -- to the director or other designated official, who might forward such requests to the appropriate divisional staff. Where available, parents would generally access services at the school in their attendance area.

Upon initial registration, or upon renewing the registration of a home-based education program, if a registering authority is aware of a special needs situation, then it should take this into account when reviewing the written educational plan for the students. As previously agreed in recommendations (A.3.1) and (B.1.1), the written educational plan should not be inappropriate for the age and development of the child.

In this respect, in reviewing an initial registration or a renewal, since the onus is on registering authorities to demonstrate that a written educational plan might be inappropriate for the age and development of a child,[6] registering authorities should also be able to initiate the assessment and diagnosis of a child either before or after the commencement of a home-based education program. While public education authorities should assume, when registering or monitoring home-based education programs, that the parents will provide or are providing their children with an education comparable in quality to that of children in the public education system, the authorities must have open access at reasonable times in order to substantiate a concern, if necessary, that the program might not be appropriate for the age and development of a particular child.

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[5] See *The Independent Schools Regulations*, clause 29(2)(e), and the *Independent Schools Policy Manual*, Policy B.5 (January 1992).

[6] See principle #5 in Chapter III and recommendation (B.1.4).

At this point, home-based education representatives on the Advisory Committee expressed several concerns about diagnostic assessment, particularly of younger children who are not yet fully developed neurologically:

- That such testing be conducted with the best interests of the child in mind, not for the specific purpose of denying or terminating a home-based education program;
- That any testing be conducted fairly and without causing undue stress on the children being tested;
- That parents have equal access to the test results or to any reports that are prepared as a result of such tests;
- That the interpretation and the use of the test results be appropriate to the nature of the tests; and
- That, to the extent possible, the labelling of children should be avoided.

Public education representatives assured home-based educators that any diagnostic assessments would follow established procedures for all children, which require reasonable and probable grounds before testing would take place as well as follow-up meetings and consultation at the initiative of any party, including the parents. As a matter of course, responsible testing took into account all the above concerns.

Public education representatives also expressed general concerns about the interpretation and use of standardized test results. The most appropriate use of such test results was for making instructional adjustments to the educational program of a child in relation to the child's educational needs, and not for making comparisons between students, teachers, schools, or school systems.

In the light of potentially different opinions with respect to the "best interests of the child", both public education and home-based education groups conceded that the review of written educational plans in the case of special needs students, while unavoidable, was nonetheless potentially delicate. While respecting the desires of the parents to educate their children at home, the state still had a compelling interest in the education of all children.

Recommendations

(C.4.1) *That each board of education be eligible to receive special needs program funding and designated pupil funding for special needs students in home-based education programs who are registered with the board of education.*

(C.4.2) *That each board of education develop policies with respect to how home-based educators can access the various special needs services in the school division.*

(C.4.3) *That each board of education provide or arrange, at the request of the parents and at the board's expense, for assessment and diagnostic services for special needs students in registered home-based education programs.*

(C.4.4) *That, if a registering authority is aware of a special needs situation, then the registering authority:*

- *Should take this into account when reviewing the written educational plan for the student, upon initial registration or renewal of the home-based education program; and*
- *Could initiate the assessment and diagnosis of a student either before or after the commencement of a home-based education program.*

Understandings

School-based instruction in the home, at the initiative of board of education officials, for health or disability reasons, is once again different from home-based education at the initiative of parents.

As in the public education system, where the qualifications of teachers may affect the eligibility to receive departmental funding, the qualifications of supporting personnel who are working with the parents may also affect the eligibility for funding of some special needs services to home-based educators.

One cannot generalize about the most appropriate place for assessment and diagnostic testing to take place. In some cases, this might be at a board of education office or school, and in other cases in the home.

As in the public education system, the board of education or home-based educators may appeal to the Regional Coordinator for Special Education in the event of extraordinary requests for services, materials, or equipment which the board of education is unable or unwilling to provide.

Table 6.1 (Suggested Policy Statement)

Monitoring Registered Home-Based Education Programs

Rationale

- Saskatchewan Education acknowledges the responsibility of parents to provide for the education of their children and the right to direct the education of their children at and from their home in accordance with their conscientious beliefs.

- The monitoring of registered home-based education programs by registering authorities represents the major way in which the state is protecting the interests of society at large with respect to the education of the children in home-based education programs.

- In the case of an alleged failure of parents to provide an adequate education for their children, the burden of proof resides with the registering authority. Therefore, the registering authority must have open access at reasonable times to home-based education programs in order to substantiate a concern, if necessary, that a particular program might not be appropriate for the age and development of a particular child.

- Persons monitoring home-based education programs should hold valid and subsisting certificates of qualification to teach that are issued pursuant to *The Teacher Certification and Classification Regulations*.

Policy

- Registering authorities are responsible, at their own expense, for monitoring registered home-based education programs.

- "Monitoring":
  - Includes checking compliance with the Act, the regulations, and the criteria for registration of a home-based education program on an ongoing and collaborative basis with the parents who are directing the home-based education program;
  - Includes observing or being cognizant of the educational activities of the home-based education program in order to protect the interests of society at large that the children in the home-based education program are receiving an education comparable in quality to that of children in the public schools;
  - Includes a recognition of the right of parents to direct the education of their children at and from their home in accordance with their conscientious beliefs;
  - Does not include responsibility for the hiring of tutors, or for the selection of programs, courses, textbooks, and resource materials in the home-based education program; and
  - Includes a respect for and recognition of the distinct philosophical orientation of each home-based education program.

- When monitoring the registered home-based education program, the registering authority shall:
  - Respect the written educational plan of each home-based education program; and
  - Check for conformity of educational practice with respect to this written educational plan.

Guidelines

- All monitoring under the policy shall take place within the definition of "monitoring" above. The phrase "on an ongoing and collaborative basis" means that the registering authority will work in collaboration with the parents to meet the requirements of the regulations and policies as these apply to each home-based education program.

- Monitoring is concerned with the intellectual, emotional, and physical development of the children in each home-based education program. "Observing or being cognizant of the educational activities of the home-based education program" includes assessing the academic progress of the children in the home-based education program.

- It is inappropriate to specify in policy which particular evaluative instruments, such as testing, that registering authorities or parents should utilize in evaluating the educational progress of students in home-based education programs.

- In the light of parents' rights to provide their children with an education in accordance with their conscientious beliefs, the phrase "comparable in quality" does not mean the same. For parental choice to be meaningful, the state has to acknowledge certain freedoms for home-based educators in respect of curricula, programs, and courses.

- When monitoring registered home-based education programs, the registering authority shall assume that the parents are providing their children with an education comparable in quality to that of children in the public education system unless there is evidence to the contrary.

Procedures

1. Each registering authority shall have designated an official who is responsible for registering and monitoring each home-based education program in accordance with the above policy and guidelines. [See Table 4.2: "Registration Process".]

2. Before registering each home-based education program, the designated official shall have met with the parents at least once, by mutual agreement, not necessarily in the family's home, to discuss the various aspects of the proposed home-based education program. [See Table 4.2: "Registration Process".]

3. At this first meeting, the designated official and the parents shall come to an understanding with respect to the services, in addition to monitoring, that the board

of education will provide to the home-based education program. On subsequent occasions, the two parties may revise the understandings reached at this first meeting.

4. Subsequent to the first meeting, the designated official shall meet with the parents at least once in each school year, in accordance with the understandings agreed to at the first meeting, but may hold more frequent meetings in relation to requests and needs identified by either party. The designated official and the parents shall meet at reasonable, mutually agreeable times.

5. When meeting with the parents, the designated official shall inform the parents of sufficiencies or deficiencies in relation to the regulations, the policy, and the guidelines.

6. If the designated official determines that there are deficiencies, then he or she shall initiate a collaborative discussion with the parents in order to correct these deficiencies. The designated official and the parents shall attempt to agree upon a plan and a time-frame to correct these deficiencies.

7. If the designated official and the parents are able to agree upon a plan and a time-frame to correct deficiencies, then the designated official shall determine on subsequent meetings whether the parents have corrected the deficiencies in accordance with the agreed-upon plan. Such meetings shall generally be more frequent than two times a year.

8. If the designated official determines that the parents are unwilling to agree to a plan to correct deficiencies, or unwilling to correct the deficiencies in accordance with the agreed-upon plan, then the designated official may initiate steps to suspend or cancel a home-based education program's registration. [See Table 7.2: "Suspension and Cancellation".] The designated official may consult with other board of education officials or with Saskatchewan Education officials before initiating such steps.

9. If the parents feel that the designated official is being unreasonable in his or her interpretation of the regulations, the policy, and the guidelines, the parents may refer their case to the established process for reviewing disputes at the local level. [See Table 7.3: "Settlement of Disputes".]

[redacted]

Rationale

- In addition to registration and monitoring, boards of education may within their available resources provide some services to home-based educators in their school division that are similar to services normally available to other students in the division.
- However, as with other services, the way in which home-based educators may access these services should remain a board-level rather than a provincial-level decision. Policies should reflect the local circumstances in each school division.

Policy

- Upon request of a parent who is directing a home-based education program, a board of education **may** provide services, in addition to monitoring, for the purpose of enhancing the home-based education program, leading to improved instruction and improved learner outcomes.
- Each board of education shall develop policies with respect to how home-based educators may access various kinds of services provided by the board in its school division.

Guidelines

- The provision of various services by boards of education to home-based educators represents a co-operative relationship.
- Home-based educators in each school division are encouraged to make themselves known to boards of education in their school division. Boards of education are encouraged to develop these policies in collaboration with the home-based educators in their school division.
- Services available to home-based educators might include the following:
    - Helping the parents plan their home-based education program;
    - Helping select courses, textbooks, and other resource materials;
    - Payment of tuition for the Saskatchewan Correspondence School;
    - Facilitating access to common educational resources, such as libraries;
    - Facilitating access to French, music, and industrial arts programs;
    - Helping evaluate students' progress;
    - Facilitating participation in extra-curricular athletic programs;
    - Driver education;

  - Services for special needs students;
  - Aptitude testing and career support (guidance counselling);
  - Use of school facilities for meetings; and
  - Use of gymnasiums for athletic tournaments.

- If parents desire any such services, they are encouraged to make their requests known to the board of education at the time of the initial registration of the home-based education program.

- When providing such services, boards of education shall:
  - Respect and recognize the distinct philosophical orientation of each home-based education program; and
  - Respect the written educational plan of each home-based education program.

- Boards of education will generally pay the tuition fees for programs and courses from the Saskatchewan Correspondence School.

- At the discretion of the board, boards of education may also provide other courses, textbooks, and resource materials to home-based educators for use in their programs.

- Since there exists only one category of home-based education programs, namely **registered** programs, the provision of services to a home-based education program, unlike the supervision of teachers in registered independent schools, cannot lead to:
  - Teacher certification;
  - The accreditation of a home-based education program;
  - The issuing of departmental credits for approved secondary-level courses being taught in the home;[1]
  - Teacher accreditation.

Procedures

1. Each registering authority shall have designated an official who is responsible for registering and monitoring each home-based education program in accordance with the above policy and guidelines. [See Table 4.2: "Registration Process".]

2. Before registering each home-based education program, the designated official shall have met with the parents at least once, by mutual agreement, not necessarily in the family's home, to discuss various aspects of the proposed home-based education program. [See Table 4.2: "Registration Process".]

3. At this first meeting, the designated official and the parents shall have come to an understanding with respect to the services, in addition to monitoring, that the board of education will provide to the home-based education program. On subsequent occasions, the two parties may revise the understandings reached at this first meeting.

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[1] With the exception of secondary-level courses supplied by the Saskatchewan Correspondence School, and other accredited correspondence or extension schools.

Chapter VII

Settlement of Disputes

Legislation and Regulations with Respect to Public Schools in Saskatchewan

Since *The Education Act* was consolidated and redrafted in 1978, "fundamental justice" has been one of its foundational principles. Therefore, the Act contains a number of advisory, appeal, referral, and review processes -- which are listed in Table 7.1 -- for the investigation and resolution of disputes which arise out of the administration of the Act.

Section 7 of *The Charter of Rights and Freedoms, 1982*, has further confirmed that fundamental justice is a significant legal principle in the relation between public authorities of all kinds and individual citizens.

With respect to disputes at the local level between board of education officials and parents, the major dispute settlement mechanisms in *The Education Act* are as follows:

- 10.01(1) The minister may:
  - (a) appoint one or more persons to inquire into and report on:
    - (i) any appeal, complaint, difference or disagreement arising from the decision of a board of education, director, superintendent or other school official; or
    - (ii) any matter related to the condition and development of education in a school division;
  - (b) fix the expenses of and incidental to the execution of an inquiry pursuant to clause (a), including the fees and disbursements of persons appointed to conduct the inquiry;
  - (c) on receipt of a report of an inquiry pursuant to clause (a), make any order or decision that the minister considers appropriate.

  (2) The persons appointed pursuant to clause (1)(a) have all the powers of commissioners appointed pursuant to *The Public Inquiries Act* and may make rules determining procedures to be used in conducting the inquiry.

  (3) An order or decision of the minister pursuant to clause (1)(c) is final and binding on all parties affected by the order or decision.

- 147 Where a difference or conflict arises in the relationship of a pupil to the school, the parent or guardian, on behalf of that pupil, shall be entitled to immediate access to procedures established by the board of education for the purposes of investigation and mediation of such differences or conflicts.

- 151(1) Every pupil shall be subject to the general discipline of the school.

  (2) Every board of education shall make provisions, which shall be set out in its bylaws or administrative manual, applicable to the schools in its jurisdiction for the expeditious investigation and treatment of problems arising in the relationship between a pupil and the school.

- 152(1) Where, in the opinion of the principal and his staff:
  - (a) a pupil fails to respond to his duties pursuant to section 149; or
  - (b) a situation has developed with respect to a pupil's attendance, studies, deportment, personal relationships in the school or attitudes toward the school;

  in such a manner and to such an extent as to affect adversely his own educational development or the well-being of other pupils and the school, the principal may refer the matter to a committee composed of staff members and consultants for study, diagnosis and any investigation that may contribute to the correction of the problem.

  (2) Where a referral is made pursuant to subsection (1), the parent or guardian of the pupil shall be immediately informed by the principal of the circumstances and shall have an opportunity for consultation with the committee in any study or investigation conducted under that subsection.

- 153(1) A principal:
  - (a) may suspend a pupil from school for not more than three school days at a time for overt opposition to authority or serious misconduct; and
  - (b) where he or she suspends a pupil pursuant to clause (a), shall immediately report the circumstances of the suspension and the action taken to the parent or guardian of that pupil.

  (2) A principal may suspend a pupil for a period not exceeding ten school days where the principal receives information alleging, and is satisfied, that the pupil has:
  - (a) persistently displayed overt opposition to authority;
  - (b) refused to conform to the rules of the school;
  - (c) been irregular in attendance at school;
  - (d) habitually neglected his or her duties;
  - (e) wilfully destroyed school property;
  - (f) used profane or improper language; or
  - (g) engaged in gross misconduct or a type other than that described in clauses (a) to (f).

  (3) Where a principal suspends a student pursuant to subsection (2), the principal shall:
  - (a) immediately:
    - (i) report the matter to the director or superintendent or person authorized to act in their absence;
    - (ii) notify the parent or guardian of the pupil of the circumstances of the suspension and the action taken; and
    - (iii) inform the pupil of the reason for his or her suspension; and

(b) as soon as is practicable:
  (i) prepare a written report of the circumstances of the suspension and cause it to be given to:
    (A) the director or superintendent or other person authorized to act in their absence; and
    (B) the parent or guardian of the pupil; and
  (ii) on the request of either the pupil or his or her parent or guardian, grant a hearing to the pupil and his or her parent or guardian.

(4) The director, superintendent or person authorized to act in their absence shall:
  (a) before the expiration of the period of suspension pursuant to subsection (2);
  (b) after consultation with the principal and any other persons her or she considers appropriate; and
  (c) after granting a hearing to the pupil and his or her parent or guardian;
confirm, modify or remove the suspension.

- 160 Every board of education shall appoint a person, or designate a member of its staff, to be the local attendance counsellor for the division.

- 161(1) The local attendance counsellor shall, under the supervision of the director or superintendent, be responsible for the administration, within the division, of the provisions of this Act pertaining to school attendance and for the implementation of the bylaws of the board of education with respect to school attendance and, without restricting the generality of the foregoing, every local attendance counsellor shall:
  (a) conduct investigations with respect to reports and referrals by principals concerning attendance problems in the schools of the division;
  (b) make every reasonable effort to elicit the co-operation of the pupil and his parents or guardian in the solution of attendance problems of that pupil;
  (c) report to the principal and to the parent or guardian of a pupil concerning his findings on an investigation or inquiry with respect to the attendance of that pupil and the circumstances of a complaint or referral in that connection;
  (d) institute, or cause to be instituted, proceedings against a parent, guardian or other person having charge or control of a pupil, or against any other person who violates any of the provisions of this Act pertaining to school attendance;
  (e) prepare and submit to the department annually, or at such times as the minister may require, a report or reports in the prescribed form of attendance problems in which legal proceedings were instituted by him and on the general state of school attendance in the division.

(2) For the purposes of clauses 1(a) and (b), the local attendance counsellor shall solicit the advice and assistance of the teachers, principal, guidance officer and other consultants who may be available within the school division and from other relevant social agencies, and shall include the parents or guardian of the pupil in consultations directed toward diagnosis and solution of the problem.

(3) A local attendance counsellor shall, for the purposes of this Act, be vested with the powers of a peace officer, and shall have the authority to enter theatres, places of

public amusement and entertainment, stores, shops, workshops, factories and all other places where children may be congregated and, or where he finds therein a pupil who is the subject of a complaint or referral for reasons of non-attendance at school, shall return the pupil to his school or to his parent or guardian, but if objection is taken to his entering a dwelling place he shall not enter therein without a warrant.

(4) Where a magistrate or justice of the peace is satisfied, upon the oath of a local attendance counsellor, that there are reasonable grounds to suspect that a pupil who is the subject of a complaint or referral for reasons of non-attendance at school may be found in a dwelling place, the magistrate or justice of the peace may grant a warrant to search that dwelling place and, if that pupil is found therein, to return the pupil to his school or to his parent or guardian.

(5) A local attendance counsellor shall have access to the records of the school and the division to the extent that those records are necessary for procuring the names, ages and residences of pupils and any other information required for the discharge of his responsibilities under this Act.

Legislation and Regulations with Respect to Home-Based Education in Other Provinces

As previously discussed, the secretariat to the Committee reviewed the legislation and regulations pertaining to home-based education in other provinces.

In varying degrees, legislation and regulations in other provinces address two major issues with respect to resolving disputes: (1) the termination of a home-based education program at the initiative of a public authority; and (2) enforcing compulsory attendance legislation upon termination of the program.

Termination of Home-Based Education Programs

Provinces to the east of Saskatchewan have no formal mechanisms for resolving disputes in the case where a public authority takes the initiative to terminate a home-based education program on the grounds that the children in the program are failing to make satisfactory educational progress.

In Alberta, *The Home Education Program Regulations* permit a board of education to terminate a home-based education program in the following manner:

> 6(1) A resident board responsible for the supervision of a home education program may, in writing, terminate the program and direct the student to a school operated by the board if after complying with section 5 [which relates to student assessment and achievement] the board is of the opinion, after giving due consideration to the abilities of the student, that

(a) the student fails to meet an acceptable level of achievement, or
(b) the home education program does not continue to meet the requirements of section 3(1) [which relates to *The Goals of Basic Education for Alberta*].

(2) A willing non-resident board that is supervising a home education program may, in writing, terminate the program at the end of a school year and shall notify the parent and the resident board of the termination.

(3) Notwithstanding subsection (2), a willing non-resident board that is supervising a home education program may, in writing, terminate the program at any time after complying with section 5 and shall notify the parent and the resident board of the termination if the non-resident board is of the opinion, after giving due consideration to the abilities of the student, that

(a) the student fails to meet an acceptable level of achievement, or
(b) the home education program does not continue to meet the requirements of section 3(1).

(4) A resident board that is notified of the termination of a program that was supervised by a willing non-resident board shall enrol or direct the student to a school.

In British Columbia, anyone who believes that a home school learner of compulsory school age either:

(1) is not registered, or
(2) is registered but is not receiving an educational program;

may report this belief to the superintendent of schools in the school district in which the child resides.

On receipt of such a report, the local superintendent shall investigate or cause the complaint to be investigated. If the superintendent determines that the child is not registered, or is registered but not receiving an educational program, and if the parent refuses to comply with the law, the superintendent shall initiate legal proceedings against the parent. If, in the opinion of the superintendent, the situation is one of child neglect, he or she may refer the case to the Ministry of Social Services for prosecution.

Enforcing Compulsory Attendance Legislation

As in Saskatchewan, provincial educational legislation in other provinces views the compulsory attendance of children of compulsory school age as a very serious matter. Legislation generally makes provision for local attendance counsellors and for the enforcement of compulsory attendance requirements at the local level.

In Newfoundland, Nova Scotia, Quebec, and Ontario, where local boards of education are responsible for certifying equivalent or efficient instruction in a home-based education program, local officials would take appropriate action directly, upon termination of a program.

In Prince Edward Island, New Brunswick, and Manitoba, where the provincial departments of education are responsible for certifying equivalent or efficient instruction, department officials would forward the relevant information, upon termination of a program, to local officials for them to take appropriate action.

In a recent innovation, sections 108 to 112 of the Alberta *School Act, 1988*, provide for the establishment and operation of an Attendance Board to hear matters respecting the school attendance of students. Such a hearing, initiated by a board of education or the operator of a private school, represents a separate, autonomous investigation different from the termination of a home education program. Subject to any terms or conditions that the Attendance Board considers proper in the circumstances, the Attendance Board may make an order doing one or more of the following:

> (a) directing the student to attend school;
> (b) directing the parents of a student to send the student to school;
> (c) subject to sections 23, 29 and 30, directing the student to take an education program, course or student program set out in the order;
> (d) reporting the matter to a director under the *Child Welfare Act*;
> (e) imposing on the student's parents a monetary penalty not exceeding $100 per day up to a maximum of $1000 to be paid to the Crown for each day that the student does not attend school;
> (f) giving such other direction not referred to in clauses (a) to (e) as the Attendance Board considers appropriate in the circumstances.

Questions, Discussions, Recommendations, and Understandings

While public authorities do not administer legislation and regulations with the intent of provoking disputes, nonetheless, in the nature of relations between the state and its citizens, disputes do occur. Thus the Advisory Committee concurred that it is better to make provision for the amicable resolution of such disputes before, rather than after any disputes arise.

In addressing all the questions in this chapter, the Committee drew in large measure on the new independent schools policies with respect to the settlement of disputes.[1] The independent schools policies distinguish two different kinds of disputes: (1) where the Department of Education refuses to accept or to grant approval for something, or to issue a certificate of some kind in the first place; and (2) where the Department decides to suspend or cancel a certificate which it has already issued.

Where the Department refuses to issue a certificate or to grant approval for something in the first place, such as the registration of an independent school or the approval of a new course at the secondary level, the independent school may take its case to the Independent Schools Review Board.

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[1] See *The Independent Schools Policy Manual*, policies G.1, G.2, and G.3.

Where the Department decides to suspend or cancel a Probationary "B" Teaching Certificate, a Letter of Eligibility to Teach, or a certificate of school registration or accreditation, *The Independent Schools Regulations* require the Minister to give the holder an opportunity to be heard before taking action. Notwithstanding this, where the Minister considers it necessary in the public interest, the Minister may suspend or cancel a certificate immediately, but shall give the holder an opportunity to be heard within 15 days of the suspension or cancellation.

Similarly, where a principal suspends a pupil from a public school, subclause 153(3)(b)(ii) of *The Education Act* requires the principal to grant a hearing to the pupil and his or her parent or guardian, on the request of either the pupil or his or her parent or guardian.

The Advisory Committee noted some similarities and some differences between independent schools and home-based education. First, similar to the case of independent schools, registering authorities should give parents an opportunity to be heard before cancelling the registration of a home-based education program. This is discussed further under question (D.1) below.

Second, since the Department of Education is responsible for administering the independent schools policies, any disputes will generally occur at the provincial level. In the case of home-based education, however, any disputes will generally occur at the local level. Consistent with current legislation and practice in the public education system, the Advisory Committee felt that boards of education should retain the local autonomy for establishing their own policies for resolving disputes at the local level, within guidelines established by the Department. This is discussed further under question (D.2) below.

Third, the Advisory Committee felt that there should be a provincial-level Home-Based Education Review Board, similar to the Independent Schools Review Board, for the purpose of reviewing the implementation of the new legal framework for home-based education in the province, and for reviewing, as called upon, disputes at the local level which are referred to it. However, the Home-Based Education Review Board could only review unresolved disputes from the local level on issues relating to **process**, not on issues relating to **substance**. This is discussed further under question (D.3) below.

Question (D.1)

What recommendations should be made with respect to the suspension and cancellation of home-based education programs?

Discussion

As already discussed, similar to other such situations under *The Education Act*, the cancellation of a registered home-based education program should be handled through a clearly-defined process which reflects the principles of fundamental justice and administrative fairness. Where a registering authority proposes to cancel the registration of a home-based education program, since it is proposing to cancel something which it had previously accepted, it should give the parents an opportunity to be heard before taking such action.

A registering authority might suspend or cancel a registered home-based education program if the parents:

- Obtained the registration through providing false or misleading information;
- Have violated *The Education Act* or the regulations;
- Have breached a term or condition of the registration;
- Have ceased to meet the criteria of eligibility for registration; or
- Refuse to meet with officials who are monitoring their program.

A registering authority might also suspend or cancel the registration of a home-based education program if it is not in the public interest that the registration remain outstanding. This would normally involve serious problems related to the health and safety of the children, their physical or mental well-being, or their overall educational interests.

In the case of registration with a board of education, where a director of education believes that he or she might have just cause to cancel the registration of a home-based education program, the director should notify the parents in writing, specifying the reasons for the possible cancellation. Then the parents should be given the opportunity to make written or oral submissions to the director of education, or to his or her designate, within 30 days of the date of notice. After considering the written or oral submissions, if any, the official would make a formal decision, notify the parents of the decision in writing, and provide the parents with written reasons for the decision.

Notwithstanding this, some situations might be sufficiently serious that the director of education might suspend the registration of a home-based education program immediately, until a hearing could be arranged. In such circumstances, the parents would be given an opportunity to make written or oral submissions to the director, or to his or her designate, within 15 days from the date of notice. After considering the written or oral submissions, if any, the director would rescind the suspension or cancel the registration.

Recommendations

(D.1.1) *That a registering authority invite and consider any written or oral submissions from the parents who are directing a home-based education program before making any decision to cancel the registration of a home-based education program.*

(D.1.2) *That decisions to cancel the registration of a home-based education program be made in a fair and consistent manner, taking into account the interests of the children and the parents concerned.*

Understandings

Registering authorities and home-based educators will take all steps to resolve their differences before any of the above steps are taken. See, for example, Table 6.1, "Monitoring Registered Home-Based Education Programs", procedures 5 to 8, which provide for collaborative discussions to correct observed deficiencies in home-based education programs.

In the case of disputes at the local level, before any decision is made, either party may request that the situation be reviewed in accordance with the policies established by a board of education to resolve disputes at the local level. See question (D.2).

Following the suspension or cancellation of a registered home-based education program, the parents shall take "all steps that are necessary" to ensure regular attendance of their children of compulsory school age in a public school, unless exempted from attendance pursuant to section 156 of *The Education Act*.

Question (D.2)

What recommendations should be made with respect to the settlement of disputes arising from the administration of home-based education policies?

Discussion

The recommendations of the Advisory Committee vest considerable responsibility in the director of education or other designated officials of boards of education with respect to some areas of fundamental importance to home-based educators, such as:

- Registration of home-based education programs;
- Written educational plans;
- Monitoring home-based education programs;
- Cancellation of registered home-based education programs.

While home-based education representatives recognized that someone had to exercise such responsibility, nonetheless this posed some risks for home-based educators if such officials were not sensitive, particularly to the philosophical or religious concerns of home-based educators.

While agreeing with the need for clearly-defined processes at the local level for reviewing disputes between board of education officials and home-based educators, public education representatives expressed some concerns about the nature and the details of such dispute settlement processes.

First, while, as in subsection 151(2) of *The Education Act*, boards of education could be required to establish dispute settlement processes, boards should retain the local autonomy for developing their own processes consistent with their own local circumstances. Any recommendations of the Advisory Committee in this regard should be in the nature of guidelines, not requirements.

Second, as far as possible, dispute settlement processes should be designed to bring the parties together, not drive them apart. Terms like "appeal" or "arbitration" processes had connotations that were too legalistic and confrontational. Terms like "review" or "mediation" were more appropriate.

Third, the processes should not be cumbersome or expensive. The two parties can always go to court. The purpose of establishing dispute settlement processes is precisely to avoid the expense and the acrimony of going to court.

Fourth, where the professional judgment of a director of education, or other board of education official, is being called into question, such judgments should be reviewed, in the first instance, by an official's peers.

Fifth, where existing dispute settlement mechanisms already exist, these should be given the opportunity to work. For example, home-based educators could normally appeal any board-level policies with respect to home-based education directly to the board of education itself. Also, in the event of extraordinary needs for services, materials, or equipment for special needs students which the board of education is unable or unwilling to provide, the board of education or home-based educators may appeal to the Regional Co-ordinator for Special Education.[2]

Consistent with recommendations (C.3.2) and (C.4.2), the Advisory Committee concurred that each board of education should develop, in conjunction with the home-based educators in its school division, a policy for reviewing disagreements between board of education officials and home-based educators with respect to the administration of home-based education policies in the school division. This policy would specify the matters which could be referred to the review mechanism and the procedures for reviewing the matters so referred.

Next, in the interests of bringing the two parties together rather than driving them apart, the Committee felt that, at the initiative of either party, potential disagreements should be reviewed **before**, rather than after decisions were made by board of education officials. As one possible approach, the Committee suggested that the two parties might each select one appropriately-trained individual, mutually acceptable to both parties, jointly to review the disagreement that had arisen. These individuals might be:

- A regional director of education;
- The director of education from another school division;
- A public school principal;
- A retired professional educator;
- A legal expert;

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[2] See page 127 above.

- The director of the Independent Schools Branch, Saskatchewan Education;
- The chairperson of the Independent Schools Review Board;
- The director or principal of an independent school;
- A home-based education resource person; or
- Another home-based educator.

The individuals so selected would consider any submissions made by either party and any other information they considered relevant. They would make a written report to the two parties setting out a recommendation and the grounds for that recommendation. A copy of the report would be provided to both parties.

Upon receipt and consideration of the report, the director of education would make a formal decision and notify the home-based educators of this decision. With respect to issues of **substance** -- such as whether or not a written educational plan was appropriate for the age and development of a child -- the decision of the director of education would be final, and, like other decisions of the director, appealable only to the board of education. With respect to issues of **process**, either party could subsequently refer the matter to the Home-Based Education Review Board.

Recommendations

(D.2.1) *That each board of education develop, in conjunction with the home-based educators in its school division, a policy for reviewing disagreements between board of education officials and home-based educators with respect to the administration of home-based education policies in the school division.*

(D.2.2) *That this policy specify:*
- *The matters which may be referred to this review mechanism; and*
- *The procedures for reviewing the matters so referred.*

(D.2.3) *That, at the initiative of either party, potential disagreements between board of education officials and home-based educators be reviewed* ***before****, rather than after decisions are made by board of education officials.*

Understandings

Board of education officials shall attempt to make all administrative decisions in a fair and consistent manner, taking into account the interests of the children and the parents who are directing each home-based education program.

Board of education officials and home-based educators will make all efforts to resolve their differences before a matter is referred to the review mechanism. See, for example, Table 5.2, "Written Educational Plans", procedures 3 to 5, which provide for collaborative discussions to reach agreement on acceptable written educational plans.

The review mechanism will **not** be a formal hearing process involving the taking of evidence under oath.

The two individuals selected to review the disagreement could make recommendations relating not only to issues of substance but also to issues of process, with the purpose of avoiding further such disagreements in the future.

A home-based educator would not normally be considered in violation of any home-based education policies while the disagreement was being reviewed.

The board of education will be responsible for all reasonable costs associated with the review mechanism.

Question (D.3)

What process, if any, should there be for reviewing and evaluating the new legal framework that is put in place?

Discussion

The Advisory Committee is recommending a comprehensive legal framework for the operation of home-based education programs in Saskatchewan. This final report is the result of more than a year's work, involving representatives of the major educational groups with a stake in home-based education policies in the province. Throughout its work, the Committee has drawn upon the constitutional and legal framework for home-based education in Canada, the policy framework as established by the Deputy Minister of Education, existing educational practices in Saskatchewan, and the recently developed legal framework for independent schools in Saskatchewan.

The Committee is recommending a legal framework which the Committee believes will workably and appropriately balance the rights and interests of the children in home-based education programs, their parents, and society at large. Nonetheless, no recommendations are perfect, since circumstances change, unforeseen events arise, and things may not work out as anticipated.

Therefore, the Advisory Committee concluded that there should be a provincial-level Home-Based Education Review Board, similar to the Independent Schools Review Board, for the purpose of reviewing the implementation of the new legal framework for home-based education in the province. This Board should be similar in composition to the present Advisory Committee. It would exist for an initial period of 3 years, after which the Minister could extend the life of the Review Board.

In addition to reviewing the implementation of the new legal framework for home-based education in the province, the Review Board would (1) monitor the direct registration of home-based educators with Saskatchewan Education; and (2) review, as called upon, disputes at the local level which are referred to it. However, as discussed under question (D.2) above, the Home-Based Education Review Board could only review unresolved disputes from the local level on issues relating to **process**, not on issues relating to **substance**.

Like the present Advisory Committee, the Review Board would only have the power to make recommendations to the Minister.

Recommendations

(D.3.1) *That the Minister of Education establish a Home-Based Education Review Board consisting of a chairperson, nominated and appointed by the minister, and representatives nominated by each of the following organizations or groups:*

- *Saskatchewan Schools Trustees Association;*
- *Saskatchewan Teachers' Federation;*
- *League of Educational Administrators, Directors, and Superintendents (two representatives);*
- *Saskatchewan home-based educators (three representatives);*
- *Saskatchewan independent schools;*
- *Saskatchewan Education.*

The chairperson shall not be a representative of any of the above groups.

(D.3.2) *That the mandate of the Home-Based Education Review Board be:*

- *To review, as called upon, the implementation of the new legal framework for home-based education in Saskatchewan;*
- *To monitor and to review the direct registration of home-based educators with Saskatchewan Education;*
- *To review, as called upon, disputes at the local level which are referred to it; and*
- *To make recommendations to the Minister of Education with respect to home-based education policies and procedures, but only:*
  - *Arising out of disputes that are referred to it; or*
  - *On issues referred to the Review Board by the Minister.*

(D.3.3) *That the Home-Based Education Review Board only have the authority to review unresolved disputes at the local level on issues relating to* ***process****, not on issues relating to* ***substance****.*

Understandings

The "guidelines" and "procedures" for the operation of the Home-Based Education Advisory Board should be similar to those of the Independent Schools Advisory Board.[3]

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[3] See the *Independent Schools Policy Manual*, Policy G.1 (June 1992).

Saskatchewan Education will provide summary information to the Review Board on the implementation of the new legal framework for home-based education in the province.

Any member of the Review Board may bring issues to the attention of the Board.

The Review Board is **not** a formal hearing process involving the taking of evidence under oath.

Both parties to a particular dispute would have the right to appear and to make their case in person before the Review Board.

Question (D.4)

What recommendations, if any, should be made with respect to enforcing compulsory attendance and prosecution of unregistered home-based education programs?

Discussion

The Government of Saskatchewan has a "compelling interest" in the education of all Saskatchewan children. Flowing from this, the Government has assumed the legislative authority to exempt children of compulsory school age from attendance at a public school, the Minister of Education established the previous Advisory Board on Independent Schools in October 1989, and the Deputy Minister of Education established the present Advisory Committee in January 1991, in order to put in place legal frameworks for independent schools and home-based education programs, respectively, as two alternatives to the public education system.

Now that the Minister of Education has established the new legal framework for independent schools, in accordance with the recommendations of the Advisory Board on Independent Schools, each independent school which purports to provide its pupils of compulsory school age with an exemption from attendance at a public school is now required to be registered with Saskatchewan Education.[4] Both unregistered independent schools and the parents of pupils of compulsory school age that are attending unregistered independent schools are guilty of an offence and liable on summary conviction to the payment of a fine.

In the light of this, the Advisory Committee considered whether there should be additional legislation or regulations -- in addition to sections 155 to 163 of *The Education Act* -- with respect to the prosecution of unregistered home-based education programs. Was the existing legislation sufficient to protect the compelling interest of the state in the education of all Saskatchewan children?

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[4] See *The Independent Schools Regulations*, subsection 7(2), and the *Independent Schools Policy Manual*, Policy A.7 (June 1992).

The Advisory Committee also considered who should be responsible for enforcing compulsory attendance legislation in the case of direct registration of a home-based education program with the Department of Education. In the case of independent schools, the Department is responsible for ensuring that the attendance provisions of the Act are met by students enrolled in registered independent schools.[5]

After some discussion, the Committee concluded that the existing legislation was sufficient to protect the compelling interest of the state in the education of children in home-based education programs. Since the parents were personally directing the education of their children on the program, there was no meaningful distinction between the parents as responsible for ensuring the regular attendance of their children at a public school, unless exempted from doing so, and the parents as responsible for registering a home-based program for their children. A home-based education program is not an institution like an independent school. If a home-based education program is not registered, then only the parents are responsible.

Next, the Committee concluded that, either in the case of registration with a board of education, or registration with the Department, the local attendance officer should continue to be responsible, as the agent of the Minister, for ensuring that the attendance provisions of *The Education Act* are being met. In the cases where the Department denies the initial registration or cancels the existing registration of a home-based program, the responsible department official would, as a matter of course, inform the local attendance officer of the situation, for the local attendance officer to take appropriate action.

Recommendations

(D.4.1) *That, in the case of registration with a board of education, the local attendance counsellor continue to be responsible for ensuring that the attendance provisions of The Education Act are being met.*

(D.4.2) *That, in the case of direct registration with Saskatchewan Education, the Department work with local attendance counsellors in order to ensure that the attendance provisions of The Education Act are being met.*

Understandings

Once the new legislation, regulations, and policies are in place for home-based education programs, all parents who are currently providing or intending to provide their own children of compulsory school age with a home-based education program will be required to register, either with a public board of education, or, for a transitional period of time, directly with Saskatchewan Education.

Parents who fail to do so will be guilty of an offence and liable on summary conviction to the payment of a fine.

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[5] See *The Independent Schools Regulations*, clause 29(2)(d), and the *Independent Schools Policy Manual*, policy B.3.3 (January 1992).

[illegible]

Existing Advisory, Appeal, Review, and [illegible] Recourse, in the Public Educational System

Board/Committee	Nature of Process	Membership	Parties	Reports, Appeals
Ministerial Committees [Govt. Organization Act, section 16]	To assist the Minister in exercising any powers or performing any duties pursuant to *The Education Act*.	Appointed by the Minister for a specific period and for a specific purpose.	N/A	Report to the Minister.
Advisory Committees [Education Act, clause 10(1)(o)]	To advise the Minister on matters relating to the development of education in the province.	Appointed by the Minister from among the universities, SSTA, STF, voluntary associations, and public at large.	N/A	Report to the Minister.
Inquiries [ss. 10.01(1) to (3)]	To inquire into any appeal, complaint, difference, or disagreement arising from the decision of a board of education, director, superintendent, or other school board official.	One or more persons appointed by the Minister.	N/A	Report to the Minister.
Educational Council [ss. 12(1) to 14]	To advise the Minister on matters referred to it by the Minister.	No fewer than five persons, at least two of whom shall be Roman Catholic, appointed for two year terms.	N/A	Advice and recommendations to the Minister.
Educational Boundaries Commission [ss. 15(1) to 17]	To consider matters referred to it by the Minister with respect to the boundaries of school divisions.	At least three members, appointed by Cabinet, for three year terms.	N/A	Advice and recommendations to the Minister.
Board of Review [ss. 113 and 114]	At discretion of the Minister, an investigation requested by a director or other board of education official upon termination of contract.	Tribunal: one person nominated by each party, chairman nominated by the Minister.	Board official, and board of education	Findings reported to both parties and to the Minister.
Local school advisory committees [ss. 137(1) to 142]	To advise the board of education; terms of reference defined in the bylaws of the board.	As prescribed in the the bylaws of the board of education.	N/A	Advice and recommendations to board.
Mediation of disputes involving pupils [s. 147]	Investigation and mediation of conflicts in the relationship of a pupil to a school.	Procedures as established by the board of education for this purpose.	Parent or guardian and board of education.	As established by the board of education.
Referral to committee [s. 152]	Study, diagnosis, or investigation initiated by a principal, where a pupil fails to respond to his duties as a pupil.	Staff members and consultants.	N/A	Report to the principal.

Board/Committee	**Nature of Process**	**Membership**	**Parties**	**Reports, Appeals**
Suspension of pupils [s. 153]	Investigation with respect to the suspension of a pupil.	Board members, officials, and consultants appointed by the board.	Principal and pupil	Decision reported to board; changeable by board.
Board of reference [ss. 212(1) to 226]	Investigation requested by a teacher upon termination of contract; no ministerial discretion.	Tribunal: one person nominated by each party, chairman nominated by both parties.	Teacher and board of education.	Decision appealable to courts, under certain circumstances.
Educational Relations Board [ss. 234(1) to 264]	Upon request of a bargaining committee facilitating mediation, conciliation, or arbitration of provincial or local collective bargaining disputes.	Two members nominated by STF, two by SSTA, and chairman by both parties.	STF (or local associations) and Govt./SSTA (or local boards).	Reports to both parties.
Teacher Classification Board [ss. 265(1) to 266]	Request by a teacher with respect to that teacher's inclusion in a class of teachers.	Two by SSTA, two by STF, and two (including the chairman) by the Minister.	Teacher and board of education.	Decision binding on both teacher and board.
Board of Teacher Education and Certification [ss. 267(1) to 271]	Review of the certification of any person whose status with respect to qualifications is referred to it.	One by each university, two by STF, two by SSTA, three from Dept. by Minister, and up to two more by Minister.	N/A	Recommendation to the Minister.

Table 7.2 (Suggested Policy Statement)

Suspension and Cancellation of the Registration of a Home-based Education Program

Rationale

- A registered home-based education program may be based upon either a religious or a philosophical perspective different from that of the public education system. Parents educate their children at home in order to achieve religious or philosophical objectives which may not or can not be satisfied within the public education system.

- Therefore, the cancellation of a registered home-based education program should be handled through a clearly defined process which reflects the principles of fundamental justice and administrative fairness.

- Where a registering authority proposes to cancel the registration of a home-based education program, the parents who are directing the home-based education program should be entitled to a hearing.

- Some situations might be sufficiently serious that it becomes necessary to suspend the registration of a home-based education program immediately until a hearing can be arranged.

Policy

- A registering authority shall invite and consider any written or oral submissions from the parents who are directing a home-based education program before making any decision to cancel the registration of a home-based education program.

- Decisions to cancel the registration of a home-based education program shall be made in a fair and consistent manner, taking into account the interests of the children and the parents.

Guidelines

- A registering authority may suspend or cancel a registered home-based education program if the parents:
  - Obtained the registration through providing false or misleading information;
  - Have violated *The Education Act* or the regulations;
  - Have breached a term or condition of the registration;
  - Have ceased to meet the criteria of eligibility for registration; or
  - Refuse to meet with officials who are monitoring their program.

- A registering authority may also suspend or cancel the registration of a home-based education program if it is not in the public interest that the registration remain outstanding. This would normally involve serious problems related to the health and safety of the children, their physical or mental well-being, or their overall educational interests.

Procedures

1. Registering authorities and home-based educators shall take all steps to resolve their differences before any of the following steps are taken. [See, for example, Table 6.1, "Monitoring Registered Home-Based Education Programs", procedures 5 to 8.]

Cancellations Under Normal Circumstances

2. In the case of registration with a board of education, where a director of education believes that he or she might have just cause to cancel the registration of a home-based education program, the director should notify the parents in writing, specifying the reasons for the possible cancellation.

3. The parents shall be given an opportunity to make written or oral submissions to the director of education, or to his or her designate, within 30 days from the date of notice.

4. After considering the written or oral submissions, if any, the director of education shall:
    - Make a formal decision;
    - Notify, in writing, the parents of the decision; and
    - Provide the parents with written reasons for the decision.

5. Before any decision is made, either party may request that the situation be reviewed in accordance with the policies established by the board of education to resolve disputes at the local level. [See Table 7.3: "Settlement of Disputes".]

Suspensions and Cancellations Under Serious Circumstances

6. Where the director of education is satisfied that it is necessary in the public interest to suspend the registration of a home-based education program immediately, the director shall notify the parents, in writing, of the suspension and of the reasons for it.

7. The parents shall be given an opportunity to make written or oral submissions to the director of education, or to his or her designate, within 15 days from the date of notice.

8. After considering the written or oral submissions, if any, the director shall:
   - Rescind the suspension, or cancel the registration;
   - Notify, in writing, the parents of this action; and
   - Provide the parents with written reasons for this action.

9. Before any decision is made, either party may request that the situation be reviewed in accordance with the policies established by a board of education to resolve disputes at the local level. [See Table 7.3: "Settlement of Disputes".]

[illegible]

Rationale

- A registered home-based education program may be based upon either a religious or a philosophical perspective different from that of the public education system. Parents educate their children at home in order to achieve religious or philosophical objectives which may not or can not be satisfied within the public education system.

- Therefore, the relationship between boards of education and home-based educators should reflect the principles of fundamental justice and administrative fairness.

- The policies vest considerable responsibility in the director of education or other designated officials of the board of education with respect to some areas of fundamental importance to home-based educators, such as:
  - Registration of home-based education programs;
  - Written educational plans;
  - Monitoring home-based education programs; and
  - Cancellation of registered home-based education programs.

  For the protection of home-based educators, there should be a clearly-defined process at the local level for reviewing disagreements between board of education officials and home-based educators in any of these sensitive areas.

- The establishment of such processes is consistent with other areas of elementary and secondary education in Saskatchewan. Since *The Education Act* was consolidated and redrafted in 1978, "fundamental justice" has been one of its foundational principles.

Policy

- Each board of education shall develop, in conjunction with the home-based educators in its school division, a policy for reviewing disagreements between board of education officials and home-based educators with respect to the administration of home-based education policies in the school division.[1]

- This policy shall specify:
  - The matters which may be referred to this review mechanism; and
  - The procedures for reviewing the matters so referred.

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[1] This is consistent with established law and practice with respect to disputes between pupils and schools. See *The Education Act*, subsection 151(2).

- At the initiative of either party, potential disagreements between board of education officials and home-based educators should be reviewed before, rather than after decisions are made by board of education officials.

Guidelines

- Board of education officials shall attempt to make all administrative decisions in a fair and consistent manner, taking into account the interests of the children and the parents who are directing each home-based education program.

- Board of education officials and home-based educators shall make all efforts to resolve their differences before a matter is referred to the review mechanism. [See, for example, Table 5.2, "Written Educational Plans", procedures 3 to 5.]

- In general, it is suggested that, at the initiative of either party, the director of education and the home-based educators should each select one appropriately-trained individual, mutually acceptable to both parties, jointly to review the disagreement that has arisen. These individuals might be:
  - A regional director of education;
  - The director of education from another school division;
  - A public school principal;
  - A retired professional educator;
  - A legal expert;
  - The director of the Independent Schools Branch, Saskatchewan Education;
  - The chairperson of the Independent Schools Review Board;
  - The director or principal of an independent school;
  - A home-based education resource person; or
  - Another home-based educator.

- The individuals so selected would consider any submissions made by either party and any other information they consider relevant. The appointees would make a written report to the two parties setting out a recommendation and the grounds for that recommendation. A copy of the report would be provided to both parties.

- The individuals so selected would review:
  - In the first instance, issues relating to process, such as:
    - Did both parties to the disagreement follow established procedures?
    - Did the home-based educators give adequate reasons for their requests?
    - Did the board of education officials fairly consider these requests?
    - Did the board of education officials give adequate reasons for denying these requests?
    - Did the board of education officials follow the spirit as well as the letter of the policies in question?
    - Were the decisions of the board of education officials consistent with previous decisions in the same area?
  - In the second instance, issues of substance, generally speaking, only if they are satisfied that both parties to the disagreement have followed due process.

- The review mechanism would **not** be a formal hearing process involving the taking of evidence under oath.

- Upon receipt and consideration of the report, the director of education would make a formal decision and notify the home-based educators of this decision. With respect to issues of substance, the decision of the director would be final, and appealable only to the board of education. With respect to issues of process, either party could subsequently refer the matter to the Home-Based Education Review Board.

- The two individuals could make recommendations relating not only to issues of substance but also to issues of process, for the purpose of avoiding further such disagreements in the future.

- A home-based educator would not normally be considered in violation of any home-based education policies while the disagreement is being reviewed.

- The board of education will be responsible for all reasonable costs associated with the review mechanism.

Table 7.4 (Suggested Policy Statement)

Home-Based Education Review Board

Rationale

- While board of education officials and home-based educators are encouraged to make all efforts to resolve any of their differences at the local level, it may be desirable in some circumstances for a local dispute to be reviewed further at the provincial level.

- It is also desirable that a provincial-level body should review, from time to time, the implementation of the new legal framework for home-based education in Saskatchewan, and should monitor the direct registration of home-based educators with Saskatchewan Education.

Policy

- The Minister of Education shall establish a Home-Based Education Review Board consisting of a chairperson, nominated and appointed by the minister, and representatives nominated by each of the following organizations or groups:
  - Saskatchewan Schools Trustees Association;
  - Saskatchewan Teachers' Federation;
  - League of Educational Administrators, Directors, and Superintendents (two representatives);
  - Saskatchewan home-based educators (three representatives);
  - Saskatchewan independent schools;
  - Saskatchewan Education.

  The chairperson shall not be a representative of any of the above groups.

- The mandate of the Home-Based Education Review Board is:
  - To review, as called upon, the implementation of the new legal framework for home-based education in Saskatchewan;
  - To monitor and to review the direct registration of home-based educators with Saskatchewan Education;
  - To review, as called upon, disputes at the local level which are referred to it; and
  - To make recommendations to the Minister of Education with respect to home-based education policies and procedures, but only:
    - Arising out of disputes that are referred to it; or
    - On issues referred to the Review Board by the Minister.

- The Home-Based Education Review Board only has the authority to review unresolved disputes at the local level on issues relating to **process**, not on issues relating to **substance**.

Guidelines

- Board of education officials and home-based educators shall make all efforts to resolve any of their differences at the local level.

- A home-based educator shall not normally be considered in violation of any home-based education policies while a dispute is being reviewed by the Review Board.

- The Minister of Education may also refer issues or matters to the Home-Based Education Review Board.

Procedures

1. The Review Board shall meet at the call of the chairperson in response to a dispute, a matter, or an issue that has been referred to it.

2. The Review Board is self-governing. The Review Board shall establish its own procedures in accordance with generally accepted rules of order.

3. Saskatchewan Education is responsible for administrative and secretariat services with respect to the Review Board. The Department will provide summary information to the Review Board on the implementation of the new legal framework for home-based education in the province.

4. Any member of the Review Board may bring issues to the attention of the Board.

5. The Review Board is **not** a formal hearing process involving the taking of evidence under oath.

6. Both parties to a particular dispute have the right to appear and to make their case in person before the Review Board.

Chapter VIII

Conclusion

The need to develop more defined policies with respect to home-based education in Saskatchewan has arisen from a number of considerations.

Historically, home-based education in Saskatchewan was predominantly distance education for children who could not attend school. The Saskatchewan Correspondence School was established in 1925 with the explicit purpose, in its early years, of serving this group of children. Since 1977, however, the School has only offered high school courses directly, even though it still provides an elementary program indirectly in conjunction with the British Columbia Correspondence School.

Today, a new group of parents are choosing to educate their children at home, primarily for philosophical reasons. While there exists a broad continuum of philosophical perspectives among home-based educators in Saskatchewan, three major perspectives are child-initiated learning, popularized by John Holt; late introduction to academic learning, researched by Raymond and Dorothy Moore; and a traditional back-to-basics approach to learning with a Christian philosophical base. Various publishers, suppliers, and support groups have arisen in response to each of these various perspectives, as well as others.

These parents are also educating their children at home in a new legal climate, represented by the *Canadian Charter of Rights and Freedoms, 1982*. Following not only from *The Charter* and from judicial interpretation of *The Charter*, most notably *Jones* v. *The Queen*,[1] but also from international declarations to which Canada has assented and from common law, it is indisputable that parents have the right to direct their children's education at and from their home in accordance with their conscientious beliefs, subject only to such reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society.

On the other hand, the Government of Saskatchewan has a compelling interest in the education of all Saskatchewan children and the responsibility to put in place a legislative and regulatory framework for home-based education in the province in order to protect the interests of both the public at large and the children in home-based education programs, themselves.

Throughout the course of its work, the Advisory Committee made no attempt to prioritize the interests of the children being educated at home, their parents, and the public at large. Rather the Committee attempted to balance the interests of the three groups. The proposed relationship between boards of education and home-based educators recognizes freedom of conscience and religion in education as well as fundamental justice. In accordance with the *Jones* decision, parents who educate their children at home must obtain an exemption from the regular scheme of education in the province. Boards of education will consider these exemptions recognizing freedom of conscience and religion in education, the rights of children, the rights of parents, the compelling interest of the state in education, and fundamental justice for all.

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[1] (1987) 31 Dominion Law Reports (4th) 569.

Insofar as the Committee is aware, the Advisory Committee on Home-Based Education has examined the issues surrounding home-based education in a more comprehensive way, involving all the major partners in the educational system, than has occurred in any other province. Within its mandate, the Committee has addressed all the questions raised by the Deputy Minister and by the organizations represented on the Committee. Accordingly, if the Government of Saskatchewan implements these recommendations, then Saskatchewan will have the most comprehensive legal framework governing home-based education of any province in Canada.

From the point of view Saskatchewan Education, boards of education, and home-based educators, the Committee's recommendations involve new responsibilities and requirements, but they also provide new opportunities. The Minister of Education has a primary responsibility for the operation and maintenance of the public education system in its three dimensions, the public and separate schools, as well as the soon-to-be established fransaskois component to the public education system. But for the sake of the children in home-based education programs, Saskatchewan Education, boards of education, and home-based educators all have the interest in assuming these additional responsibilities as well.

Glossary

(The following definitions are specific to this report. While they generally correspond to common usage in the context of Saskatchewan's public education system, they do not always do so. All *acronyms* do correspond to common usage in the context of the Saskatchewan education scene.)

Accredited independent school: An independent school that has received a specific Departmental sanction of its educational program, conferring, among other things, the eligibility of its pupils for secondary level standing. The Department recognizes the school as providing its pupils with more than simply a legitimate exemption from attendance at a public or a separate school. The term encompasses accredited independent schools *per se*, historical high schools, and special needs independent schools.

Accredited teacher: A teacher in either a public, separate, or independent school who has been granted the responsibility for determining 100 percent of the final mark or standing of his/her students in a specified Grade 12 (level 30) subject or subjects.

Adaptive dimension: One of the four major components of Core Curriculum. This component provides flexibility within the school program to enable schools and teachers to individualize instruction in order to meet the variety of students' needs. Teachers are expected to exercise their professional expertise and judgment to make curricular and instructional adjustments in order to provide each child with an appropriate education.

Adult student: As defined in *The Education Regulations*, clause 2(a), "a person who is at least 18 years of age and who has been out of [public] school for at least one year."

Alternative education program: A locally developed program designed to meet the unique and specific needs of an individual or group of individuals who are unable to complete the required areas of study in Core Curriculum and who require curricula that are qualitatively different from regular education.

Board of education: The governing body of a school division which consists of the trustees elected by the electorate in the division, which administers and manages the educational affairs of the division, and which exercises general supervision and control over the schools in the division.

Certified teacher: A teacher holding a valid certificate of qualification to teach in a Saskatchewan school.

Common essential learnings: One of the four major components of Core Curriculum. The six common essential learnings -- communications, numeracy, critical and creative thinking, technological literacy, independent learning, and personal and social values and skills -- are to be incorporated into the required areas of study and other programs and courses of study to the extent that they can authentically be incorporated into areas, programs, and courses of study.

Compulsory school age: As defined in *The Education Act*, clause 2(g), "having attained the age of seven years but not having attained the age of 16 years".

Core Curriculum: The umbrella term for provincial curriculum policy in Saskatchewan, containing four major components -- required areas of study, common essential learnings, locally-determined options, and adaptive dimension -- and specifying time and credit allocations for each of the three levels of schooling. The essential concept behind Core Curriculum is that curriculum for each grade, level, program, and course of study should be planned with the entire educational experience in mind.

Correspondence school: A school which provides courses of instruction, and guidance for the completion of these courses, to students who may or may not be in attendance at a regular school, either public or independent. Courses provided by a correspondence school generally supplement curricula provided in a regular school or by a home-based education program.

Course: A statement of aims and objectives, scope and sequence of content, and the nature of the material to be studied in a given subject or area of study in a given year of schooling.

Denominational school: A legal term that refers to religiously-based schools established as public authorities under section 93 of *The Constitution Act, 1867*, and corresponding sections of provincial acts such as section 17 of *The Saskatchewan Act, 1905*. In this broad sense, this encompasses both dissentient schools in Quebec and separate schools in Ontario, Alberta, and Saskatchewan. In a narrow sense, it refers specifically to Roman Catholic and Protestant schools in Montreal and Quebec City, and to denominational schools in Newfoundland.

Director of education: As defined in *The Education Act*, clause 2(k) and sections 106 to 108, the chief executive officer of a public board of education.

Dissentient school: A school established as a public authority in the province of Quebec, outside of Montreal and Quebec City, where the majority of the minority of electors in a public school district, either Protestant or Roman Catholic, decides to establish a dissentient school district coterminous with the public school district.

Distance education: A function of some schools to provide supervision, monitoring, and evaluation of education programs for students who are not normally in regular attendance in a classroom. Communication between the school and the student is primarily through a proctor or tutor, who, in the case of home-based education, is usually the student's parent.

Elementary level: Grades 1 to 5.

Extension school: A school which provides all the services by distance education which regular schools, either public or independent, normally provide to students in regular attendance in a classroom. Like a regular school, an extension school provides complete programs and supervision of these programs, but, like a correspondence school, it may also provide individual courses of instruction.

Goals of education: In a general sense, a series of statements which define the knowledge, skills, and attitudes students will need in order to function in the world. As such, they represent a statement of beliefs to be used when making decisions about education, and provide direction for curriculum development and instruction. In a specific sense, the *Goals of Education for Saskatchewan*, adopted in 1985, are the official goals of education for Saskatchewan schools.

Independent school: As defined in *The Education Act*, clause 2(s.1), "an institution: (i) in which instruction is provided to pupils of compulsory school age; and (ii) which is controlled and administered by a person that is not a public authority."

Monitoring: As recommended by the Advisory Committee, monitoring (a) includes checking compliance with the Act, the regulations, and the criteria for registration of a home-based education program on an ongoing and collaborative basis; (b) includes observing or being cognizant of the educational activities of the home-based education program in order to protect the interests of society at large that the children in the education program are receiving an education comparable in quality to that of children in the public schools; (c) includes a recognition of the right of parents to direct the education of their education at and from their home in accordance with their conscientious beliefs; (d) does not include responsibility for the hiring of tutors, or the selection of programs, courses, textbooks, and resource materials in the home-based education program; and (e) includes a respect for and recognition of the distinct philosophical orientation of each home-based education program.

LEADS: League of Educational Administrators, Directors, and Superintendents.

Locally-determined options: One of the four major components of Core Curriculum. These allow time for local or community program priorities, as determined by local boards of education, and which can be provided by utilizing provincially developed programs and courses or by implementing programs and courses developed at the local level.

Middle level: Grades 6 to 9.

Public school: A school established as a public authority under the provisions of *The Education Act*. In this broad sense, it encompasses public schools *per se*, separate schools, and the soon-to-be-established fransaskois schools in Saskatchewan. In the narrow sense, it refers only to public schools *per se*, excluding separate and fransaskois schools.

Pupil: As defined in *The Education Act*, clause 2(ee), a "person who is enrolled in a [public] school or registered independent school and includes any person who is of compulsory school age."

Registered independent school: In the broad sense, as defined in *The Education Act*, clause 2(ee.1), an "independent school registered pursuant to this Act and the regulations." In the narrow sense, this refers only to the specific category of registered independent schools that are not accredited by Saskatchewan Education. As such, the Department simply recognizes that a registered independent school is providing its pupils with a legitimate exemption from attendance at a public school.

Registering authority: A public authority responsible for registering home-based education programs in Saskatchewan. As recommended by the Advisory Committee, this includes either a public or a separate board of education, or, for a transitional period of time, the Saskatchewan Department of Education.

Required areas of study: One of the four major components of Core Curriculum. The seven required areas of study are language arts, mathematics, science, social studies, health education, arts education, and physical education.

SHBE: Saskatchewan Home-Based Educators, Inc.

SSTA: Saskatchewan School Trustees Association.

STF: Saskatchewan Teachers' Federation.

School division: A geographic portion of Saskatchewan which has been designated under *The Education Act* to be a unit for local governance of public schools and for the provision and administration of educational services in those schools. The term includes public school divisions, separate school divisions, and high school divisions.

Secondary level: Grades 10 to 12.

Separate school: A school established as a public authority in the provinces of Ontario, Alberta, and Saskatchewan, where the majority of the minority of electors in a public school district, either Protestant or Roman Catholic, decides to establish a separate school district coterminous with the public school district.

Special needs student: A disabled student within the meaning of section 48 or 49 of *The Education Regulations*, or a student who is "at risk" of not being able to achieve his/her potential through regular education courses and programs.

Superintendent of education: As defined in *The Education Act*, clauses 2(nn) and 10(1)(h), a person appointed by the Minister of Education, who meets the qualifications of a director of education, who has been appointed for any area designated by the Minister and whose powers and duties have been prescribed by the Minister.